

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE PATENT APPLICATION OF	)	
Dennis R. Berman	)	Examiner: Lee, Benjamin William
	)	
Application No.: 10/815,341	)	Group Art Unit: 3714
	)	
Filing Date: March 31, 2004	)	Confirmation Number: 8341
	)	
Title: METHODS OF SELECTING LOCK-IN TRAINING	)	
COURSES AND SESSIONS	)	

**SUBMITTAL OF MATERIALS FROM CO-PENDING APPLICATIONS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Recently, the Federal Circuit, in *McKesson Information Solutions, Inc., v. Bridge Medical, Inc.* (2005-1517) affirmed a District Court's determination that a patent was unenforceable due to inequitable conduct. The inequitable conduct was based upon a patent attorney's nondisclosure of office actions from co-pending applications.

In light of *McKesson*, I have attached each office action from each of the co-pending applications of the present application. You may or may not find these office actions to be material to the present application.

Respectfully submitted,

By Hoyt A. Fleming III  
Hoyt A. Fleming III  
Registration No. 41752

Date: July 12, 2007

<p>Address correspondence to:</p> <p><input checked="" type="checkbox"/> Customer Number or Bar Code Label</p> <p><b>28422</b></p>	<p>or</p> <p><input type="checkbox"/> Correspondence Address Below</p> <p>Park, Vaughan &amp; Fleming LLP P.O. Box 140678 Boise, ID 83714</p>	<p>Direct telephone calls to:</p> <p>Hoyt A. Fleming III (208) 336-5237</p>
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/690,223	10/17/2000	Dennis Ray Berman	29554.3	1492

7590 04/24/2002  
David L McCombs  
Haynes and Boone LLP  
901 Main Street Suite 3100  
Dallas, TX 75202-3789

EXAMINER	
HARRIS, CHANDA L	
ART UNIT	PAPER NUMBER

3714

DATE MAILED: 04/24/2002

*HS*

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/690,223

Examiner

Chanda L. Harris

Applicant(s)

BERMAN, DENNIS RAY

Art Unit

3714

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-23 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7, 9-11, 13 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 4, 8 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:



## DETAILED ACTION

### *Claim Objections*

Claim 3 is objected to because of the following informalities: 'key word' should be 'keyword'. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

**Claims 1-2, 5-7, 9-11, 15-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Breland et al. (US 6,254,395).**

1. [Claims 1 and 12]: Regarding Claims 1 and 12, Breland discloses a presentation process for presenting at least one knowledge topic to the learner and for prompting the learner to enter a learner constructed response thereto. See Abstract. Breland

discloses an evaluation information process for providing keyword data that corresponds to the knowledge topic. See Col.5: 29-39. Breland discloses an evaluation process for determining, based upon entry of a learner-constructed response to the knowledge topic, success or failure being determined by comparison of the learner-constructed response with the keyword data. See Col.5: 66-Col.6: 11.

2. [Claim 2]: Regarding Claim 2, Breland discloses wherein the comparison comprises a determination of whether or not expected keyword data appears in the learner-constructed response. See Col.5: 66-Col.6:11.
3. [Claims 5 and 15]: Regarding Claims 5 and 15, Breland discloses wherein upon a determination of success of the learner, the learner is not further prompted to enter a learner-constructed response for the topic. See Col.6: 7-9.
4. [Claims 6 and 16]: Regarding Claims 6 and 16, Breland discloses wherein the comparison comprises a determination of whether or not expected keyword data appears in the learner-constructed response, the keyword data comprising at least one exact keyword. See Col.5: 64-67.
5. [Claim 7]: Regarding Claim 7, Breland discloses wherein the comparison comprises a determination of whether or not expected keyword data appears in the learner-constructed response, the keyword data comprising at least one exact phrase. See Col.4: 14-19, 34-42.
6. [Claim 9]: In light of Col.5: 66-67, Claim 9 is considered to be inherent feature of Breland's invention.

7. [Claim 10]: Regarding Claim 10, Breland discloses wherein the comparison comprises a determination of whether or not expected keyword data appears in the learner-constructed response, the keyword data comprising at least one related word. See Col.5: 62-66.

8. [Claims 11 and 17]: Regarding Claims 11 and 17, Breland discloses comprising a reporting process for analyzing information regarding a performance of at least one learner during the presentation process, the evaluation information process and the evaluation process, and reporting an analyzed result to at least one predetermined party. See Col.6: 7-11.

**Claims 1-2, 5-7, 9-12, and 15-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Ziv-EI (US 6,302,698).**

1. [Claims 1 and 12]: Regarding Claims 1 and 12, Ziv-EI discloses a presentation process for presenting at least one knowledge topic to the learner and for prompting the learner to enter a learner constructed response thereto. See Col.9: 46-53. Ziv-EI discloses an evaluation information process for providing keyword data that corresponds to the knowledge topic and an evaluation process for determining, based upon entry of a learner-constructed response to the knowledge topic, success or failure being determined by comparison of the learner-constructed response with the keyword data. See Col.11: 24-36.

2. [Claim 2]: Regarding Claim 2, Ziv-EI discloses wherein the comparison comprises a determination of whether or not expected keyword data appears in the learner-constructed response. See Col.11: 24-29.
3. [Claims 3 and 13]: Regarding Claims 3 and 13, Ziv-EI discloses wherein the keyword data comprises primary keywords or phrases (i.e. particular strings), related keywords or phrases, and synonyms. See Col.12: 16-27 and Col.18: 49-65.
4. [Claims 5 and 15]: Regarding Claims 5 and 15, Ziv-EI discloses wherein upon a determination of success of the learner, the learner is not further prompted to enter a learner-constructed response for the topic. See Col.26: 16-21.
5. [Claims 6 and 16]: Regarding Claims 6 and 16, Ziv-EI discloses wherein the comparison comprises a determination of whether or not expected keyword data appears in the learner-constructed response, the keyword data comprising at least one exact keyword. See Col.5: 64-67.
6. [Claim 7]: Regarding Claim 7, Ziv-EI discloses wherein the comparison comprises a determination of whether or not expected keyword data appears in the learner-constructed response, the keyword data comprising at least one exact phrase (i.e. particular string). See Col.12: 16-26.
7. [Claim 9]: Regarding Claim 9, Ziv-EI discloses wherein the comparison comprises a determination of whether or not the learner-constructed response fails a lexical analysis. See Cols.13 and 14.
8. [Claim 10]: Regarding Claim 10, Ziv-EI discloses wherein the comparison comprises a determination of whether or not expected keyword data appears in the

Art Unit: 3714

learner-constructed response, the keyword data comprising at least one related word.

See Col.12: 16-27.

9. [Claims 11 and 17]: Regarding Claims 11 and 17, Ziv-El discloses comprising a reporting process for analyzing information regarding a performance of at least one learner during the presentation process, the evaluation information process and the evaluation process, and reporting an analyzed result to at least one predetermined party. See Col.26: 22-58.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breland.**

[Claims 3 and 13]: Regarding Claims 3 and 13, Breland does not disclose expressly wherein the keyword data comprises primary keywords or phrases, related keywords or phrases, and synonyms. However, such features would have been obvious to one of ordinary skill in the art to incorporate into Breland's invention in light of Col.5: 62-Col.6: 7, 20-27 for the purpose of providing matching data corresponding to all of the possible solutions to Breland's system.

***Allowable Subject Matter***

1. Claims 18-23 are allowed.
2. The following is a statement of reasons for the indication of allowable subject matter: Patentability is seen in, although not limited to, the combination including the method comprising the step of, "upon a determination of failure of the learner, providing remedial information to the learner and again prompting the learner to enter a learner-constructed response" (Claim 18). The prior art of record does not teach or fairly suggest this feature in the combination.
3. Claims 4, 8, and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Citation of Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Neumeyer et al. (US 6, 226,611)
  - language instruction
- Ferris et al. (US 5,011,413)
  - figural response testing

- Burstein et al. (US 6,115,683)
  - automatic essay scoring
- Bishop et al. (US 4,958,284)
  - open ended question analysis
- Driscoll et al. (US 5,987,302)
  - on-line essay evaluation system
- Poor (US 6,256,399)
  - scoring for open-ended assessments
- Burstein et al. (US 6,181,909)
  - automatic essay scoring
- Clark et al. (US 6,168,440)
  - scoring system
- Kucinski et al. (US 6,311,040)
  - scoring for open-ended questions
- Foltz et al. (US 6,356,864)
  - analyzing and evaluating writing
- Jongsma et al. (US 6,267,601)
  - holistic scoring of open-ended scoring
- O'Brien (US 6,287,123)
  - computer managed learning
- Bejar et al. (US 6,295,439)
  - evaluation of constructed responses

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 703-308-8358. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 703-308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Chanda L. Harris  
Examiner  
Art Unit 3714

ch.  
ch.  
April 17, 2002

Joe H. Cheng  
Primary Examiner



**Notice of References Cited**

Application/Control No.

09/690,223

Applicant(s)/Patent Under  
Reexamination  
BERMAN, DENNIS RAY

Examiner

Chanda L. Harris

Art Unit

3714

Page 1 of 2

**U.S. PATENT DOCUMENTS**

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
A	US-6295439 B1	09-2001	Bejar et al.	434/350x
B	US-6287123 B1	09-2001	O' Brien	434/118x
C	US-6267601 B1	07-2001	Jongsma et al.	434/323x
D	US-6356864 B1	03-2002	Foltz et al.	704/1x
E	US-6311040 B1	10-2001	Kucinski et al.	434/350x
F	US-6168440 B1	01-2001	Clark et al.	434/322x
G	US-6181909 B1	01-2001	Burstein et al.	434/353x
H	US-6256399 B1	07-2001	Poor	382/100x
I	US-5987302	11-1999	Driscoll et al.	434/353x
J	US-4958284	09-1990	Bishop et al.	434/353x
K	US-6115683	09-2000	Burstein et al.	704/1x
L	US-5011413	04-1991	Ferris et al.	434/358x
M	US-6226611 B1	05-2001	Neumeyer et al.	704/246x

**FOREIGN PATENT DOCUMENTS**

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
N					
O					
P					
Q					
R					
S					
T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
U		
V		
W		
X		

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

**Notice of References Cited**

Application/Control No.

09/690,223

Applicant(s)/Patent Under  
Reexamination  
BERMAN, DENNIS RAY

Examiner

Chanda L. Harris

Art Unit

3714

Page 2 of 2

**U.S. PATENT DOCUMENTS**

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
A	US-6302698 B1	10-2001	Ziv-EI	434/323x
B	US-6254395 B1	07-2001	Breland et al.	434/156x
C	US-			
D	US-			
E	US-			
F	US-			
G	US-			
H	US-			
I	US-			
J	US-			
K	US-			
L	US-			
M	US-			

**FOREIGN PATENT DOCUMENTS**

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X		

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/718,285	11/22/2000	Dennis R. Berman	295544	2999

7590

04/24/2002

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APR 25 2002

HAYNES &amp; BOONE LLP

EXAMINER

HARRIS, CHANDA L

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 04/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Docketed \_\_\_\_\_

By \_\_\_\_\_

# Office Action Summary

Application No.

09/718,285

Examiner

Chanda L. Harris

Applicant(s)

BERMAN, DENNIS R.

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
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- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2000 and 06 August 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other:

## DETAILED ACTION

### *Claim Objections*

Claim objected to because of the following informalities: Claim 14, line 7, is missing a word between "stored" and "a". Claim 24, line 2, is missing a word between "learner" and "his." Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

**Claims 1-6, 8-19, 21-34, 36-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Ziv-EI (US 6,302,698 B1).**

1. [Claims 1, 14, 31, and 40]: Regarding Claims 1, 14, 31, and 40, Ziv-EI discloses a database containing a plurality of questions testing on one or more knowledge topics

derived from the training material, the answer to the questions being in the form of one or more keywords; an initial presentation process for presenting a learner with at least one of the questions regarding at least one knowledge topic from the Question Bank to test the learner's initial understanding of the knowledge topic; an evaluation process for determining, based upon one or more answers provided by the learner to the questions presented in the initial evaluation process, a success or failure being determined by comparison of the learner identified keywords with the expected answers. See Col.12: 16-27, Col.18: 49-65, and Col.19: 36-46. Ziv EI discloses a knowledge enhancement process for providing the learner with modified questions or the same questions asked in the initial presentation process regarding the knowledge topic after the keywords are presented to the learner in one or more predetermined formats if a failure is determined in the evaluation process, and if a success is determined, with a confirmation presentation in one or more predetermined formats presenting the keywords relating to the knowledge topic for reinforcing the learned knowledge topic, wherein the evaluation process and the knowledge enhancement process are invoked recurrently. See Col.9: 24-41.

2. [Claims 2 and 15]: Regarding Claims 2 and 15, Ziv-EI discloses wherein the questions in the Question Bank comprise a learner choice type and a learner constructed type (e.g. Open Ended). See Col.15: 46-53.
3. [Claims 3-4, 11, 16-17, 22, 26, 32-33]: Regarding Claims 3-4, 11 and 16-17, 22, 26 and 32-33, Ziv-EI discloses wherein the keywords comprise primary keywords or phrases, related keywords or phrases, and synonyms; wherein the questions of the

Question Bank are classified based on their acceptable answers, the acceptable answers being the primary keywords found in the training material, related keywords to the primary keywords, and synonyms of both the primary keywords and their related keywords, and wherein knowledge topic is selected by a keyword entered by the learner; and wherein the comparison comprises a determination of whether or not a predetermined number of expected keywords are provided by the learner if the exact keywords are not provided. See Col.18: 49-65 and Col.12: 16-27.

4. [Claims 5 –6, 18-19, 30, 36, 41-42]: Regarding Claims 5-6, 18-19, 30, 36 and 41-42, Ziv-EI discloses wherein the enhancement presentation and the confirmation presentation are presented in a multimedia format to call the attention of the learner in which the keywords are highlighted and wherein the knowledge enhancement process uses a reference knowledge to help learning and retaining the knowledge topic. See FIG. 10.

5. [Claims 8, 21, 38]: Regarding Claims 8, 21, and 38, Ziv-EI discloses an information sequence queue for arranging questions, enhancement presentations, and confirmation presentations to be presented to the learner in response to a result of the evaluation process. See Abstract.

6. [Claims 9-10, 13]: Regarding Claims 9-10 and 13, Ziv-EI discloses a data management module, a learner interactivity management module; a learner assessment and administration module for controlling the program and a database storing tutorial materials derived from training material; and a means for deriving the knowledge topics

from the training material, the topics being summarized by one or more keywords. See Col.9: 46-58 and Col.18: 49-65.

7. [Claims 12,23, 29, 37]: Regarding Claims 12, 23, 29 and 37, Ziv-El discloses a reporting process for analyzing information regarding a performance of at least one learner during the initial presentation process, the evaluation process and the knowledge enhancement process, and reporting an analyzed result to at least one predetermined party. See Col.26: 22-58.

8. [Claims 24-25, 27, 34, 39]: Regarding Claims 24-25, 27, 34, and 39, Ziv-El discloses informing the learner of his/her progress in the training session. See Col.11: 19-35.

9. [Claim 28]: Regarding Claim 28, Ziv-El discloses wherein the step of comparing further includes identifying a spelling mistake of the learner in the learner constructed response. See Col.23: 23-33.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 7, 20, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ziv El in view of Abrahamson (US 5,002,865) and Lee et al. (US 5,267,865).**



Art Unit: 3714

[Claims 7, 20, 35]: Regarding Claims 7, 20, and 35, Ziv-El does not disclose expressly whereupon a determination of a failure of the learner, the enhancement presentation includes remedial information regarding the knowledge topic. However, Lee and Abrahamson teach such in Col.7: 15-25 and Col.2: 53-58, respectively. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate remedial information after a failure of the learner into Ziv-El's invention to insure that the learner learns the failed material before moving on to other instructional material.

***Citation of Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Linton (US 6,282,404 B1)  
-educational management system
- Morse, III et al. (US 6,120,297)  
-vocabulary acquisition
- Clements (US 6,343,935)  
-teaching vocabulary
- Breland et al. (US 6,254,395)  
-testing of writing skill
- Bishop et al. (US 4,958,284)  
-open ended question analysis

- Burstein et al. (US 6,115,683)  
-automatic essay scoring system
- Baffes et al. (US 6,292,792)  
-dynamic knowledge generation

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 703-308-8358. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 703-308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Chanda L. Harris  
Examiner  
Art Unit 3714

ch.  
ch.  
April 19, 2002

Joo H. Cheng  
Primary Examiner

In Place of  
Form PTO-1449U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

ATTY. DOCKET NO. 29554.4

SERIAL NO. Attached

## INFORMATION DISCLOSURE STATEMENT

(Use several sheets if necessary)

APPLICANT Dennis R. Berman

FILING DATE  
November 21, 2000

GROUP

10-653 U.S. P.O.  
09/11/2005

## U.S. PATENT DOCUMENTS

EXAMINER 'S INITIAL		DOCUMENT NUMBER							DATE	NAME	CLASS	Subclass	CLASS UNDER 10 APPLICABLE
CH	AA	5	6	1	6	0	3	3	4/1/97	Kerwin	434	118	
	AB												
	AC												
	AD												
	AE												
	AF												
	AG												
	AH												
	AI												
	AJ												
	AK												
	AL												
	AM												
	AN												

## OTHER PRIOR ART (Including Author, Title, Date, Pertinent Pages, Etc.).

	AO	
	AP	
	AQ	
	AR	

EXAMINER

Chanda Harris

DATE CONSIDERED

4/19/02

EXAMINER:

Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

AUG 06 2001

In Place of  
Form PTO-1449U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICEPATENT DOCKET NO.  
29554.4SERIAL NO.  
09/718,285**INFORMATION DISCLOSURE STATEMENT**  
(Use several sheets if necessary)APPLICANT  
Dennis Ray BermanFILING DATE  
November 22, 2000GROUP  
3713

## U.S. PATENT DOCUMENTS

*EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILED DATE & BY APPROPRIATE
CH	AA	5,002,491	03/26/91	Abrahamson et al.	434	322	04/28/89
CH	AB	5,267,865	12/07/93	Lee et al.	434	360	02/11/92
CH	AC	5,310,349	05/10/94	Daniels et al.	424	350	04/30/92
CH	AD	5,441,415	08/15/95	Lee et al.	434	350	12/06/93
CH	AE	5,597,312	01/28/97	Bloom et al.	434	362	05/04/94
CH	AF	5,692,906	12/02/97	Corder	434	156	06/07/95
CH	AG	5,788,508	08/04/98	Lee et al.	424	350	06/07/95
CH	AH	5,810,605	09/22/98	Siefert	434	362	11/04/94
CH	AI	5,823,788	10/20/98	Lemelson et al.	434	350	11/13/95
CH	AJ	5,957,699	09/28/99	Peterson et al.	434	350	12/22/97
CH	AK	5,978,648	11/02/99	George et al.	434	362	03/06/97
CH	AL	6,024,577	02/15/00	Wadahama et al.	424	322	11/04/97
CH	AM	6,067,538	05/23/00	Zorba et al.	706	47	12/22/98
CH	AN	6,125,358	09/26/00	Hubbell et al.	706	11	12/22/98
CH	AO	6,146,148	11/14/00	Stuppy	434	322	03/25/99
CH	AP	6,148,174	11/14/00	Renschel	434	350	11/14/97
CH	AQ	6,149,438	11/21/00	Richard et al.	434	322	06/07/95
CH	AR	6,149,441	11/21/00	Pellegrino et al.	434	350	11/06/98

EXAMINER *Chanda Harris*

DATE CONSIDERED

4/19/02

\*EXAMINER:

Initial if reference considered, whether or not citation is in conformance with MPEP § 609; Draw a line through the citation if it is not in conformance, and not considered. Include a copy of this form with your next communication to the applicant.

TECHNOLOGY CENTER 83700

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Sheet 2 of 2

In Place of Form PTO-1449		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADE MARKS		ATTY. DOCKET NO. 29554.4		SERIAL NO. 09/718,285	
<b>INFORMATION DISCLOSURE STATEMENT</b> (Use several sheets if necessary)				APPLICANT Dennis Ray Berman			
				FILING DATE November 22, 2000		GROUP 3713	
FOREIGN PATENT DOCUMENTS							
		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES    NO
CH	BA	EP 1008975 A2	06/14/00	EPO	G09B	7/04	X
EXAMINER <u>Chanda Harris</u> DATE CONSIDERED <u>4/19/02</u>							
EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw a line through the citation if it is not in conformance, and not considered. Include a copy of this form with your next communication to the applicant.							

D-914976.1

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**Notice of References Cited**

Application/Control No.

09/718,285

Applicant(s)/Patent Under  
Reexamination  
BERMAN, DENNIS R.

Examiner

Chanda L. Harris

Art Unit

3714

Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6302696 B1	10-2001	Ziv-EI	434/323x
	B	US-6282404 B1	08-2001	Linton	434/350x
	C	US-6254395 B1	07-2001	Breland et al.	434/156x
	D	US-4958284	09-1990	Bishop et al.	434/353x
	E	US-6115683	09-2000	Burstein et al.	704/1x
	F	US-6292792 B1	09-2001	Baffes et al.	706/45
	G	US-6343935 B1	02-2002	Clements	434/156x
	H	US-6120297	09-2000	Morse, III et al.	434/169x
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a) )  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/653,748	09/02/2003	Dennis Ray Berman	18364-00017USPR	4203

28422 7590 04/08/2005

HOYT A. FLEMING III  
P.O. BOX 140678  
BOISE, ID 83714

EXAMINER

HARRIS, CHANDA L.

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Non-Compliant  
Amendment (37 CFR 1.121)**

Application No.

10/653,748

Examiner

Chanda L. Harris

Applicant(s)

BERMAN, DENNIS RAY

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 2/3/05 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: \_\_\_\_\_.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflver.pdf>.

**TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

1. Applicant is given no new time period if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the entire corrected amendment must be resubmitted within the time period set forth in the final Office action.
2. Applicant is given one month, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the corrected section of the non-compliant amendment in compliance with 37 CFR 1.121, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

**Failure to timely respond** to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or

**Non-entry of the amendment** if the non-compliant amendment is a preliminary amendment or supplemental amendment.



***Response to Amendment***

The reply filed on 2/5/05 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): While the claims were presented previously, the status of "Previously Presented" should be corrected to recite "Currently Amended" since the amendment was considered non-responsive and no examination was done on the claims. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 571-272-4448. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Chanda L. Harris*

Chanda L. Harris  
Primary Examiner  
Art Unit 3714



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/653,748	09/02/2003	Dennis Ray Berman	18364-00017USPR	4203

28422 7590 01/25/2005

HOYT A. FLEMING III  
P.O. BOX 140678  
BOISE, ID 83714

EXAMINER

HARRIS, CHANDA L

ART UNIT PAPER NUMBER

3714

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

***Non-Responsive Amendment***

The reply filed on 11/12/04 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

Applicant is notified that any subsequent amendment to the specification and/or claims must comply with 37 CFR 1.173(b).

The amendment filed 11/12/04 proposes amendments to the claims that do not comply with 37 CFR 1.173(b), which sets forth the manner of making amendments in reissue applications: Any changes relative to the patent being reissued which are made to the specification, including the claims, upon filing, or by an amendment paper in the reissue application, must include the following markings:

- (1) The matter to be omitted by reissue must be enclosed in brackets; and
- (2) The matter to be added by reissue must be underlined.

A supplemental paper correctly amending the reissue application is required.

The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following:

The changes set forth in the amendment filed 11/12/04 do not solve the error stated in the oath/declaration submitted on 9/2/03 (i.e., a broadening reissue with respect to when remedial information is provided to the learner). Instead, the reissue seems to be a narrowing reissue according to the amendment filed 11/12/04. In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

Claims 1-174 are rejected as being based upon a defective reissue oath/declaration under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

A shortened statutory period for reply to this letter is set to expire ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this letter. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 571-272-4448. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Chanda L. Harris*  
Chanda L. Harris  
Examiner  
Art Unit 3714

### Interview Summary

**Application No.**

10/653,748

**Applicant(s)**

BERMAN, DENNIS RAY

**Examiner**

Chanda L. Harris

**Art Unit**

3714

All participants (applicant, applicant's representative, PTO personnel):

(1) Chanda L. Harris.

(3) \_\_\_\_\_

(2) Hoyt Fleming.

(4) \_\_\_\_\_

Date of Interview: 27 October 2004.

Type: a) ☐ Telephonic b) ☐ Video Conference

c) ☒ Personal [copy given to: 1) ☐ applicant 2) ☒ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.

If Yes, brief description: \_\_\_\_\_

Claim(s) discussed: All.

Identification of prior art discussed: H.J. Brudner (US 3,408,749).

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: We discussed ways to overcome the 35 U.S.C. 101 rejections standing in the last office action. We also discussed H.J. Brudner in light of the claimed invention. Applicant will respond in due course to the last office action.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Chanda L. Harris  
Examiner's signature, if required



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/653,748	09/02/2003	Dennis Ray Berman	18364-00017USPR	4203

28422 7590 08/24/2004

HOYT A. FLEMING III  
P.O. BOX 140678  
BOISE, ID 83714

EXAMINER

HARRIS, CHANDA L

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



**Office Action Summary**

Application No.

10/653,748

Applicant(s)

BERMAN, DENNIS RAY

Examiner

Chanda L. Harris

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/2/03, 1/26/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/26/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date, \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 1-2 and 10-13 are rejected because no useful, concrete and tangible result is produced. Claims to computer programs per se are not statutory subject matter. A claim to a computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory.

2. Claims 3-9 and 14-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as

opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a claim to pass muster, the recited limitations must somehow apply, involve, use, or advance the technological arts.

- In the present case, Claims 3, 14 and 16 only recites an abstract idea. The recited steps of merely presenting at least one knowledge topic to the learner; prompting the learner to enter a learner constructed response to one of the at least one knowledge topic; comparing keyword data that corresponds to the one knowledge topic with the learner constructed response; and determining success or failure of the learner to know the knowledge topic does not apply, involve, use, or advance the technological arts since all of the recited limitations can be performed in the mind of the user or by use of a pencil and paper. These limitations only constitute an idea of how to implement an automated learning system.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention presents at least one knowledge topic to the learner; prompts the learner to enter a learner constructed response to one of the at least one knowledge topic; compares keyword data that corresponds to the one knowledge topic with the learner constructed response; and determines success or failure of the learner to know the knowledge topic (i.e., concrete, useful, and tangible).

Although the recited system produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claims 3, 14 and 16 are deemed to be directed to non-statutory subject matter.

- In the present case, Claim 4 only recites an abstract idea. The recited steps of merely presenting a series of knowledge topics to the learner; prompting the learner to enter a learner constructed response to each knowledge topic; comparing keyword data that corresponds to each knowledge topic with the learner constructed responses; determining success or failure of the learner to know each knowledge topic; upon a determination of failure of the learner for a particular knowledge topic, providing remedial information to the learner and again prompting the learner to enter a learner-constructed response to the particular knowledge topic; upon a determination of success of the learner for a particular one of the knowledge topics, discontinuing presentation and prompting of the learner regarding the particular knowledge topic; whereupon automated presentation of the series is completed when success is determined for each knowledge topic does not apply, involve, use, or advance the technological arts since all of the recited limitations can be performed in the mind of the user or by use of a pencil and paper. These limitations only constitute an idea of how to implement an automated learning system.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention presents a series of knowledge topics to the learner; prompts the learner to enter a learner constructed response to each knowledge topic; comparing keyword data that corresponds to each knowledge topic with the learner constructed responses; determines success or failure of the learner to know each knowledge topic; upon a determination of failure of the learner for a particular knowledge topic, provides remedial

information to the learner and again prompting the learner to enter a learner-constructed response to the particular knowledge topic; upon a determination of success of the learner for a particular one of the knowledge topics, discontinues presentation and prompting of the learner regarding the particular knowledge topic; (i.e., concrete, useful, and tangible).

Although the recited system produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claim 4 is deemed to be directed to non-statutory subject matter.

- In the present case, Claim 15 only recites an abstract idea. The recited steps of merely presenting at least one knowledge topic to the learner; prompting the learner to enter a learner constructed response thereto; comparing keyword data that corresponds to the one knowledge topic with the learner constructed response; and determining success or failure of the learner to know the knowledge topic does not apply, involve, use, or advance the technological arts since all of the recited limitations can be performed in the mind of the user or by use of a pencil and paper. These limitations only constitute an idea of how to implement an automated learning system.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention presents at least one knowledge topic to the learner; prompts the learner to enter a learner constructed response thereto; compares keyword data that corresponds to the one knowledge topic with the learner constructed response; and determines

success or failure of the learner to know the knowledge topic (i.e., concrete, useful, and tangible).

Although the recited system produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claim 15 is deemed to be directed to non-statutory subject matter.

- In the present case, Claim 17 only recites an abstract idea. The recited steps of merely presenting a series of knowledge topics to the learner; prompting the learner to enter a learner constructed response to each knowledge topic; comparing keyword data that corresponds to each knowledge topic with the learner constructed response; and determining success or failure of the learner to know each knowledge topic; after a determination of failure of the learner for a particular knowledge topic, providing remedial information to the learner for the particular knowledge topic and prompting the learner to enter a new learner constructed response to the particular knowledge topic; upon a determination of success of the learner for a particular one of the knowledge topics, discontinuing presentation and prompting of the learner regarding the particular one of the knowledge topics does not apply, involve, use, or advance the technological arts since all of the recited limitations can be performed in the mind of the user or by use of a pencil and paper. These limitations only constitute an idea of how to implement an automated learning system.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention presents a series of knowledge topics to the learner; prompts the learner to

enter a learner constructed response to each topic; compares keyword data that corresponds to the one knowledge topics with the learner constructed response; determines success or failure of the learner to know each knowledge topic; after a determination of failure of the learner for a particular knowledge topic, provides remedial information to the learner for the particular knowledge topic and prompting the learner to enter a new learner constructed response to the particular knowledge topic; upon a determination of success of the learner for a particular one of the knowledge topics, discontinues presentation and prompting of the learner regarding the particular one of the knowledge topics (i.e., concrete, useful, and tangible).

Although the recited system produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claim 17 is deemed to be directed to non-statutory subject matter.

- In the present case, Claim 18 only recites an abstract idea. The recited steps of merely presenting a series of knowledge topics to the learner; prompting the learner to enter a learner constructed response to one of the at least one knowledge topic; comparing keyword data that corresponds to the knowledge topics with the learner constructed responses; and determining success or failure of the learner to know each one of the knowledge topics; upon a determination of failure of the learner, providing remedial information to the learner at a later time and prompting the learner to enter a new learner constructed response does not apply, involve, use, or advance the technological arts since all of the recited limitations can be performed in the mind of the

user or by use of a pencil and paper. These limitations only constitute an idea of how to implement an automated learning system.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention presents a series of knowledge topics to the learner; prompts the learner to enter a learner constructed response to one of the at least one knowledge topic; compares keyword data that corresponds to the knowledge topics with the learner constructed responses; and determines success or failure of the learner to know each one of the knowledge topics; upon a determination of failure of the learner, provides remedial information to the learner at a later time and prompts the learner to enter a new learner constructed response (i.e., concrete, useful, and tangible).

Although the recited system produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claims 18 is deemed to be directed to non-statutory subject matter.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.



**Claims 1, 3-6, and 10-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Thompson et al. (US 3,715,811).**

1. [Claims 1, 3-4,10-18]: Regarding Claims 1,3-4, and 10-18, Thompson discloses a presentation process for presenting at least one knowledge topic (i.e., instructional material) to the learner and for prompting the learner to enter a learner-constructed response thereto. See Abstract. Thompson discloses an evaluation information process for providing keyword data (i.e., correct answer information). See Col.3: 42-47, 64-Col.4: 2. Thompson discloses an evaluation process for determining, based upon entry of a learner-constructed response to the knowledge topic, success or failure of the learner to know the knowledge topic, the success or failure being determined by comparison of the learner-constructed response with the keyword data whereupon a determination of failure of the learner, remedial information is provided to the learner before the learner is prompted to enter another learner-constructed response. See Col.1: 33-46. Thompson discloses the success or failure being determined by whether or not expected keyword data appears in the learner-constructed response, wherein upon a determination of failure of the learner, remedial information is provided to the learner before the learner is prompted to enter another learner-constructed response. See Col.1: 33-46. Thompson discloses upon a determination of success of the learner, discontinuing presentation and prompting of the learner regarding the particular knowledge topic, whereupon automated presentation of the series is completed when success is determined for each knowledge topic. See Col.1: 33-36. Thompson discloses remedial information is provided to the learner after which the learner is

prompted to enter another learner constructed response and remedial information is provided to the learner after the learner is prompted to enter the learner constructed response. See Col.1: 33-46. Thompson discloses remedial information is provided to the learner before the learner is prompted to enter a last learner-constructed response. See Col.1: 41-46. Thompson discloses remedial information is provided to the learner before the learner is prompted to enter a plurality of learner-constructed responses (e.g., characters entered a number of times). See Col.1: 41-46 and Col.5: 13-16, 38-40. Thompson discloses upon a determination of success of the learner for a particular one of the knowledge topics, discontinuing presentation and prompting of the learner regarding the particular one of the knowledge topics. See Col.1: 33-46. Thompson discloses upon a determination of failure of the learner, providing remedial information to the learner at a later time and prompting the learner to enter another learner-constructed response. See Col.1: 41-46. It is Examiner's position that anytime after a determination of failure is considered to be a 'later time'.

2. [Claims 5-6]: Regarding Claims 5 and 6, Thompson discloses wherein the comparing comprises a determination of whether or not expected keyword data appears in the learner-constructed response, the keyword data comprising at least one exact keyword (i.e., answer in the correct sequence and the correct number of entries made) and the keyword data comprising at least one exact phrase (i.e., answer in the correct sequence and the correct number of entries made). See Col.5: 14-16, 37-40.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 2 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson in view of Ziv-EI (US 6,302,698).**

[Claims 2, 7-9]: Regarding Claims 2 and 7-9, Thompson does not disclose expressly the keyword data comprising at least one synonym. However, Ziv-EI teaches such in Col.18: 49-65. Thompson does not disclose expressly wherein the comparing comprises a determination of whether or not the learner-constructed response fails a lexical analysis. However, Ziv-EI teaches such (i.e., test whether an answer string can be found anywhere within the responses string) in Col.13: 38-60. Thompson does not disclose expressly generating a report (i.e., Student Activity Report) based on analyzed information for at least one predetermined party (i.e., teacher). However, Ziv-EI teaches such in Col.26: 22-58. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Thompson, in light of the teaching of Ziv-EI, in order to enable the entering by a user of more than one correct answer and judge student performance.

***Citation of Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

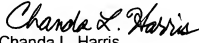
- Lee (US 5,441,415)  
-remedial information after an incorrect response

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 703-308-8358. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Chanda L. Harris  
Examiner  
Art Unit 3714

Form PTO-1449 (modified)	Attorney Docket Number 18364-00017USPR	Originating Utility Patent Number US 6,461,166 B1
List of Patents and Publications for Applicant's INFORMATION DISCLOSURE STATEMENT	Applicant Dennis Ray Berman	
Page 1 of 1	Issued Date: October 8, 2002	Group:

### U.S. Patent Documents

Exam. Init.	Ref. Des.	Document Number	Date	Name	Class	Sub Class	Filing Date if App.
CH	A01	4,958,284	09.18.90	Bishop et al.	<del>364</del>	<del>419</del>	
CH	A02	5,002,865	03.26.91	Kumashiro et al.	<del>430</del>	<del>558</del>	
CH	A03	5,011,413	04.30.91	Ferris et al.	<del>434</del>	<del>358</del>	
CH	A04	5,987,302	11.16.99	Driscoll et al.	<del>434</del>	<del>353</del>	
CH	A05	6,115,683	09.05.00	Burstein et al.	<del>704</del>	<del>001</del>	
CH	A06	6,120,297	09.19.00	Morse, III et al.	<del>434</del>	<del>169</del>	
CH	A07	6,168,440	01.02.01	Clark et al.	<del>434</del>	<del>322</del>	
CH	A08	6,181,909	01.30.01	Burstein et al.	<del>434</del>	<del>353</del>	
CH	A09	6,226,611	05.01.01	Neumeyer et al.	<del>704</del>	<del>246</del>	
CH	A10	6,254,395	07.03.01	Breland et al.	<del>434</del>	<del>156</del>	
CH	A11	6,256,399	07.03.01	Poor	<del>382</del>	<del>400</del>	
CH	A12	6,267,601	07.31.01	Jongsma et al.	<del>434</del>	<del>323</del>	
CH	A13	6,282,404	08.28.01	Linton	<del>434</del>	<del>350</del>	
CH	A14	6,287,123	09.11.01	O'Brien	<del>434</del>	<del>118</del>	
CH	A15	6,292,792	09.18.01	Baffes et al.	<del>706</del>	<del>45</del>	
CH	A16	6,295,439	09.25.01	Bejar et al.	<del>434</del>	<del>350</del>	
CH	A17	6,302,698	10.16.01	Ziv-El	<del>434</del>	<del>323</del>	
CH	A18	6,311,040	10.30.01	Kucinski et al.	<del>434</del>	<del>350</del>	
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CH	A20	6,356,864	03.12.02	Foltz et al.	<del>704</del>	<del>1</del>	

### Foreign Patent Documents

Exam. Init.	Ref. Des.	Document Number	Date	Country	Class	Sub Class	Translation Yes/No

EXAMINER: <i>Chanda K. Harris</i>	DATE CONSIDERED: <i>8/18/04</i>
EXAMINER: INITIAL IF REFERENCE CONSIDERED, WHETHER OR NOT CITATION IS IN CONFORMANCE WITH MPEP609; DRAW LINE THROUGH CITATION IF NOT IN CONFORMANCE AND NOT CONSIDERED. INCLUDE COPY OF THIS FORM WITH NEXT COMMUNICATION TO APPLICANT.	

INFORMATION DISCLOSURE STATEMENT — PTO-1449 (MODIFIED)



PTO/SB&S/b (08-03)  
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Substitute for form 1449A/B/PTO  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  (Use as many sheets as necessary)		<b>Complete If Known</b>  Application Number 10/653748-Conf. #00004203 Filing Date September 2, 2003 First Named Inventor Dennis Berman Art Unit N/A Examiner Name Not Yet Assigned Attorney Docket Number 18364-00017USPR	
Sheet	1	of	1

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cls No.†	Document Number: Number-Gnd Code² (If known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
CH	AA	US-5,695,962	12-09-1997	Kupiec	
CH	AB	US-5987443	11-16-1999	Nichols et al.	
CH	AC	US-6411924	06-25-2002	de Hita et al.	
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CH	AH	US-5689716	11-18-1997	Chen	
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CH	AQ	US-5768580	06-16-1998	Wical	
CH	AR	US-6199034 B1	03-06-2001	Wical	
CH	AS	US-5002491	03-26-1991	Abrahamson et al.	
CH	AT	US-6067536	05-23-2000	Zorba et al.	
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CH	AV	US-6256399 B1	07-03-2001	Poor	
CH	AW	US-6267601 B1	07-31-2001	Jongsma et al.	
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CH	AY	US-6493650 B2	12-10-2002	Berkand et al.	
CH	AZ	US-65484470 B2	06-24-2003	Veale	
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CH	AB1	US-5,168,565	12-01-1992	Morita	
CH	AC1	US-5265065	11-23-1993	Turtle	
CH	AD1	US-5325405	06-28-1994	Hung et al.	
CH	AE1	US-5463773	10-31-1995	Sakakibara et al.	
CH	AF1	US-6173251 B1	01-09-2001	Ito et al.	
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CH	AH1	US-6553382 B2	04-22-2003	Halon	
CH	AI1	US-4817036	03-28-1989	Millett et al.	
CH	AJ1	US-5384703	01-24-1995	Witthott et al.	
CH	AK1	US-5424947	06-13-1995	Nagao et al.	
CH	AL1	US-5442780	08-15-1995	Takanashi et al.	

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. †Applicant's unique citation designation number (optional). ‡See Kind Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. §Enter Office that issued the document, by the two-letter code (WIPO Standard 67.3). ¶For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ††Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. †††Applicant is to place a check mark here if English language Translation is attached.

Examiner Signature	Chanda L. Harris	Date Considered	8/18/04
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<b>Notice of References Cited</b>	Application/Control No. 10/853,748	Applicant(s)/Patent Under Reexamination BERMAN, DENNIS RAY	
	Examiner Chanda L. Harris	Art Unit 3714	Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-5,441,415	08-1995	Lee et al.	434/350
	B	US-3,715,811	02-1973	Thompson et al.	434/310
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,564	07/02/2003	Dennis R. Berman	R0356-00004	5486
28422	7590	03/27/2007		
HOYT A. FLEMING III P.O. BOX 140678 BOISE, ID 83714			EXAMINER CRABTREE, JOSHUA DAVID	
			ART UNIT	PAPER NUMBER
			3714	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/27/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.



**Office Action Summary**

Application No.

10/613,564

Applicant(s)

BERMAN, DENNIS R.

Examiner

Joshua D. Crabtree

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 2/2/07 and 12/21/2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 28-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/21/2006 and 02/02/2007 have been entered. Claims 1-27 have been cancelled. Newly added claims 28-38 are pending.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 28-38 are rejected under 35 U.S.C. 102(b) as being anticipated by New, III (US 6,155,834).

With regard to claims 28, 33, and 37, and the limitations of presenting on the display, utilizing a graphical user interface, the keyword in a contextual presentation, the keyword having  $n$  characters, where  $n$  is greater than 2, and then presenting on the

display, using the graphical user interface, the contextual presentation with at least the keyword missing therefrom, New, III discloses showing a word to a user on a screen, then showing the same screen with a portion of the word blanked out (Fig. 6a; Col. 15: 52 - Col. 16: 49). New, III discloses that the number of blanks may be adjusted by a user (Col. 29: 48-57), which could be as many blanks as there are letters in a word, if desired by a user. Additionally, New, III discloses that it is known in the art to display a word, erase the word, and then prompt a student to spell the previously displayed word by entering letters through a keyboard (Col. 1: 29-38).

With regard to the limitations of receiving a first received character entered into a keyboard by the learner, and before receiving any other character via the keyboard, determining if the first received character is equal to the first character of the keyword, New, III discloses checking each letter to see if it is correct, as the letters are entered (steps 910, 920, 940, 950, and 960 in Fig. 6a).

With regard to claim 33, and the limitations of determining that the first character is equal to the first character of the keyword, and based at least in part upon determining that the first character is equal to the first character of the keyword, determining to present the first received character on the display, using the graphical interface, New, III discloses these feature (Steps 920 and 930 in Fig. 6a).

With regard to claims 28, 33, and 37 and the limitation of wherein if the first received character is not equal to the first character of the keyword, then presenting on the display, using the graphical user interface, a first indication, New, III discloses that

if the first letter is incorrect, then either a "\*" symbol may be shown in the blank (Steps 920, 940, and 960 in Fig. 6a).

With regard to the limitation wherein if the first received character is equal to the first character of the keyword (or second received character is equal to the second character of the word, as in claim 33), then presenting on the display, using the graphical interface, a second indication that is distinct from the first indication, New, III discloses that if the correct letter is entered, then the correct letter is shown in the blank.

With regard to claims 29 and 38, and the limitations of receiving a second received character entered into the keyboard by the learner, and before receiving any other character via the keyboard, determining if the second received character is equal to the first character of the keyword, and if the second received character is not equal to the first character of the keyword, then presenting on the display, using the graphical interface, the first indication, and if the second received character is equal to the first character of the keyword, then presenting on the display, using the graphical interface, the second indication, New, III discloses that if the user enters the incorrect first character, then a "\*" symbol is shown in the blank. The user receives another chance to enter the correct letter. Therefore, the second character entered by the user is compared to the first character of the keyword, and then a corresponding indicator is provided, as previously described.

With regard to claims 30, 31, 35, and 36 and the limitation wherein the second indication includes presenting the first character of the keyword on the display, New, III discloses this feature (Step 930 in Fig. 6a).

With regard to claims 32 and 34, and the limitations of receiving a request from the learner to present a hint on the display, and then presenting the second indication on the display using the graphical interface, New, III discloses that if the user enters a “\*” symbol as the answer, then the correct letter will be shown (Steps 940 and 950 in fig. 6a). Therefore, the user request the hint by typing a “\*” symbol instead of a letter, and be shown the correct letter.

#### *Response to Arguments*

3. Applicant's arguments with respect to newly added claims 28-38 have been considered but are moot in view of the new ground(s) of rejection for the reasons set forth above.

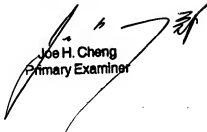
#### *Conclusion*

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua D. Crabtree whose telephone number is 571-272-8962. The examiner can normally be reached on 8:00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joshua D. Crabtree  
March 15, 2007

  
Joe H. Cheng  
Primary Examiner

**Notice of References Cited**

Application/Control No.

10/613,564

Applicant(s)/Patent Under

Reexamination

BERMAN, DENNIS R.

Examiner

Joshua D. Crabtree

Art Unit

3714

Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,155,834	12-2000	New, III, Cecil A.	434/118
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\* A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.				
10/613,564	07/02/2003	Dennis R. Berman	R0356-00004	5486				
28422 HOYT A. FLEMING III P.O. BOX 140678 BOISE, ID 83714	7590 01/22/2007		<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">CRABTREE, JOSHUA DAVID</td></tr></table>		EXAMINER		CRABTREE, JOSHUA DAVID	
EXAMINER								
CRABTREE, JOSHUA DAVID								
			<table border="1"><tr><td>ART UNIT</td><td>PAPER NUMBER</td></tr><tr><td>3714</td><td></td></tr></table>	ART UNIT	PAPER NUMBER	3714		
ART UNIT	PAPER NUMBER							
3714								
			<table border="1"><tr><td>MAIL DATE</td><td>DELIVERY MODE</td></tr><tr><td>01/22/2007</td><td>PAPER</td></tr></table>	MAIL DATE	DELIVERY MODE	01/22/2007	PAPER	
MAIL DATE	DELIVERY MODE							
01/22/2007	PAPER							

Please find below and/or attached an Office communication concerning this application or proceeding.





**Advisory Action  
Before the Filing of an Appeal Brief**

<b>Application No.</b> 10/613,564	<b>Applicant(s)</b> BERMAN, DENNIS R.
<b>Examiner</b> Joshua D. Crabtree	<b>Art Unit</b> 3714

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED **21 December 2006** FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). **ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will **not** be entered because:  
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☒ They raise the issue of new matter (see NOTE below);  
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.  
 NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_  
 Claim(s) objected to: \_\_\_\_\_  
 Claim(s) rejected: 1-27  
 Claim(s) withdrawn from consideration: \_\_\_\_\_

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will **not** be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will **not** be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_

JDC

*Joe H. Cheng*  
Primary Examiner

Continuation of 3. NOTE: Newly added claims 28 and 37 present new features wherein if the first received character is not equal to the first character of the keyword, then presenting a first indication, and if the first character is equal to the first character of the keyword, then presenting a second indication (lines 10-13); and claims 29 and 38, present new features wherein if the second received character is not equal to the first character of the keyword, then presenting on the display, using the graphical user interface, the first indication, and if the second received character is equal to the first character of the keyword, then presenting on the display, using the user interface, the second indication; and claim 33 presents new features wherein if the second received character is not equal to the second character of the keyword, then presenting on the display, using the graphical user interface, a first indication, and if the second received character is equal to the second character of the keyword, then presenting on the display, using the user interface, a second indication that is distinct from the first indication; which raise new issues of the new matter and would require further consideration and search.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,564	07/02/2003	Dennis R. Berman	R0356-00004	5486
28422	7590	10/25/2006	EXAMINER	
HOYT A. FLEMING III				
P.O. BOX 140678				
BOISE, ID 83714				
ART UNIT			PAPER NUMBER	
3714				

DATE MAILED: 10/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/613,564

Applicant(s)

BERMAN, DENNIS R.

Examiner

Joshua D. Crabtree

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 7/28/2006.  
 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-27 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☒ The drawing(s) filed on 28 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) ☐ Notice of Informal Patent Application (PTO-152)  
 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. In response to the amendment dated 7/28/2006; claims 1-27 pending.

### *Drawings*

2. The drawings were received on 7/28/2006. These drawings are accepted, and the previous rejection with respect to the drawings is withdrawn.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 1-3, 6, 5, 7, 10-13, 15, 16, 18-20, 22, 24-26 are rejected under 35 U.S.C. 102(a) as being anticipated by Braunberger et al. (US 2003/0077559).

With regard to claims 1, 11, 18, 25, and the limitations of presenting on a display, using a graphical user interface, one or more unfamiliar learning entities in a contextual presentation, Braunberger et al. disclose a system in which educational tasks are presented to the user (Paragraph [0009]). These tasks may include asking questions, or requiring the user to read portions of learning material (Paragraph [0024]). With regard

to using a graphical interface, Braunberger et al. disclose that the user may interact via a testing graphical user interface (Paragraph [0026]).

With regard to the limitation of prompting the learner to memorize the unfamiliar learning entities for two or more times in view of the contextual presentation, Braunberger et al. disclose that an educational task may be presented repeatedly to a learner (Paragraph [0009]). Braunberger et al. disclose that the educational tasks are used to help the student memorize materials (Paragraph [0021]).

With regard to the limitation of presenting on the display, using the graphical user interface, the contextual presentation to the learner with one or more selected learning entities missing therefrom, the missing learning entities being expected to be input into the computer by the learner to complete the contextual presentation, and receiving the learning elements provided by the user, Braunberger et al. disclose presenting questions to the user, pertaining to the educational task, and receiving answers from the user (Paragraph [0031]).

With regard to the limitation of evaluating at least one received learning element before the learner completes the learning entity, and presenting on the display, using the graphical interface, a visual feedback in real time to the learner indicating incorrectness of the provided learning element, Braunberger et al. disclose displaying the words "Correct", or "Incorrect", depending on the user's answers (Paragraph [0031 - 0032]).

With regard to claim 18, and the limitation wherein the aforementioned is performed via computer program on a computer readable storage medium, Braunberger et al. disclose that a computer may be used to implement the invention (Paragraph [0022]).

With regard to claims 2, 12, and 19, and the limitation wherein, if a first learning element is evaluated to be incorrect by the computer, then the computer prohibits the learner from providing a second learning element subsequent to the first learning element, Braunberger et al. disclose that if a user answers incorrectly, the system will require the user to answer the question again (Paragraph [0032]). The question and answer process may be repeated for the same question, until a criterion is met (Paragraph [0009]).

With regard to claims 3, 6, 13, and 20, and the limitation of hinting the learner by displaying a learning element of one or more of the learning entities, Braunberger et al. disclose that the user may request a hint (Paragraph [0033]). The hint provided may be the first letter of the correct answer (Paragraph [0078]).

With regard to claims 5, 15, 16, and 22, and the limitation of allowing the learner to identify one or more learning entities for receiving a hint thereof if the learner can not recall the identified learning entities. Braunberger et al. disclose that the user may choose to receive a hint (Paragraph [0032]). The user may press a "hint button" to request the hint (Paragraph [0044]).

With regard to claims 7 and 26, and the limitation wherein the learning entity is a word and the learning element is a character, Braunberger et al. disclose that the system may be used for memorizing materials in learning a foreign language (Paragraph [0021]). Memorization of foreign language words would require the user to memorize the spelling of the words.

With regard to claims 10 and 24, and the limitation wherein the presentation is in a question and answer form in which the learning entities are in the answer, Braunberger et al. disclose presenting questions, and requiring the user to answer the questions (Paragraph [0031]).

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 8 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braunberger et al. in view of Wilson (US 6,186, 795).

With regard to claim 8, Braunberger et al. disclose that the system can be used to teach memorization (Paragraph [0021]). Braunberger also discloses that the topics used



in the invention may include math, which would contain alphanumeric characters and numerals. However, Braunberger does not explicitly disclose requiring the student to memorize alphanumeric characters or numerals. Wilson teaches a memorization system designed to assist a student in memorizing numeric and textual information (Col. 1, lines 53-59; see also Fig. 2) It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teaching of Wilson into the invention of Braunberger in order to provide a memorization system in which the user learns to memorize alphanumeric characters and numerals. A system using numeric characters would have the benefit of being applicable to science, engineering or math classes in which alphanumeric characters are encountered.

**5. Claims 4, 9, 14, 17, 21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braunberger et al. in view of Parry et al. (US 6,077,085).**

With regard to claims 4, 14, and 21, Braunberger et al. disclose presenting the first letter of the correct answer as a hint (Paragraph [0078]). Braunberger et al. do not disclose presenting additional letters or characters as hints. Parry et al. teach the feature of revealing a few characters of a missed word as a hint. Parry et al. teach that this feature is a powerful aid for recalling the entire word (Col. 25: 52-61). It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teaching of Parry et al. into the invention of Braunberger et al. in order to provide a hint feature which displays more than just one character of the missed word. As taught

by Parry et al., this feature could be a useful aid in helping the student recall the entire word.

With regard to claims 9, 17, and 23, Braunberger et al. disclose providing feedback indicating correctness of a response (Paragraphs [0031 – 0032]). Braunberger does not explicitly disclose highlighting the missed word on the display. Parry et al. teach the feature of highlighting the errors made by the student (Col. 24, lines 44-46). It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teaching of Parry et al. into the invention of Braunberger in order to provide feedback indicating, via highlighting, which word was answered incorrectly.

#### *Response to Arguments*

6. Applicant's arguments with respect to claims 1, 5-7, 10, 11, 15, 16, 18, and 25 have been considered but are moot in view of the new ground(s) of rejection.

#### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua D. Crabtree whose telephone number is 571-272-8962. The examiner can normally be reached on 8:00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JC

Joshua D. Crabtree  
August 18, 2006

JOE CHENG  
PRIMARY EXAMINER

<b>Notice of References Cited</b>	Application/Control No. 10/613,564	Applicant(s)/Patent Under Reexamination BERMAN, DENNIS R.	
	Examiner Joshua D. Crabtree	Art Unit 3714	Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2003/0077559	04-2003	Braunberger et al.	434/322
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,564	07/02/2003	Dennis R. Berman	R0356-00004	5486
28422	7590	04/28/2006	EXAMINER	
HOYT A. FLEMING III				
P.O. BOX 140678				
BOISE, ID 83714				
			ART UNIT	PAPER NUMBER
			3715	

DATE MAILED: 04/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/613,564

Applicant(s)

BERMAN, DENNIS R.

Examiner

Joshua D. Crabtree

Art Unit

3715

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 July 2003.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-27 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/5/04, 9/27/04.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

DETAILED ACTION

*Drawings*

1. Applicant is requested to provide a descriptive legend for each of the structural elements in the drawings currently represented in the form of a hollow rectangle, for example those denoted by symbols 202, 204, 206, 208, and 210. Correction is required.

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 5-7, 10, 11, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Cousins (US 5,141,439). Cousins discloses a keyword teaching and testing method which includes teaching students to become familiar with subject matter by memorizing keywords and grouping sentences according to main ideas (See abstract).

With regard to claim 1, Cousins teaches the limitation of presenting one or more unfamiliar learning entities to a learner in a contextual presentation. Cousins discloses a first reading of the text by the student (Col. 1, lines 50-55; see also Fig. 2, step 1).

Cousins discloses the limitation of requesting the learner to memorize the unfamiliar learning entities for one or more times in view of the contextual presentation (Col. 1, lines 50-60).

Cousins discloses the limitation of presenting contextual information to the learner with one or more selected learning entities missing therefrom, the missing entities being expected to be filled in by the learner to complete the contextual presentation so as to prove he or she has memorized the entities (Col. 1, lines 56-60; see also Figs. 1a-f).

With regard to the limitation of monitoring each learning element of the learning entity provided by the learner, Cousins discloses the learner comparing his or her answers to those in the original text, in order to monitor his or her performance on the test (Col. 1, lines 63-65).

With regard to the limitation of evaluating each learning element in response to the learning element provided by the learner before the learner completes each entity; and providing a visual feedback in real time to the learner indicating incorrectness of the provided learning element, Cousins discloses the student reading the text for a fourth time while filling in the correct answers (Col 1, lines 63-65). Thus the mistakes are corrected as the text is read, or in real time. Visual feedback is provided as the learner compares his or her answers to those in the original text.

With regard to claims 5 and 15, Cousins discloses a third reading in which students attempt to fill in blanks based on comprehension recall, and a fourth reading



in which the student corrects mistakes while viewing the original text (Col. 1, lines 56-60). Thus the learner consults with the original text to retrieve the correct word or words that he or she could not successfully recall after the third reading. With regard to the limitation of identifying one or more learning entities for receiving a hint, the learner would identify the empty or incorrectly answered blanks as ones for which to seek a hint, or the correct word, from the original text.

With regard to claims 6 and 16, Cousins discloses allowing the learner to view the original text to find the correct words, as explained above.

With regard to claim 7, Cousins discloses the entities as words, as described in the rejection to claim 1 above. Words comprise characters, or letters.

With regard to claim 10, Cousins discloses the student taking a fill-in-the-blanks test prepared verbatim from sections from the original text. (Col. 1, lines 45-50) Thus the presentation is in a question and answer form in which the learning entities are in the answer.

With regard to claim 11, Cousins discloses presenting one or more keywords to the learner in a contextual presentation. Specifically, Cousins discloses a second reading of the text where the student underlines and memorizes keywords from the text (Col. 1, lines 53-55). Cousins also discloses requiring the student to memorize and recall key words (Col. 1, lines 57-60). With regard to the limitation of presenting the contextual presentation to the learner with one or more selected keywords missing therefrom, the missing keywords being expected to be filled in by the learner to

complete the contextual presentation so as to prove that the learner has learned and memorized the keywords, see the above rejection to claim 1. With regard to the limitations of monitoring each character in real time as the character is being provided, and providing visual feedback to the learner indicating incorrectness of the provided character, see the above rejection to claim 1.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2-4, 9, 13, 14, 18, 19-23, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parry et al. (US 6,077,085) in view of Cousins. Parry et al. teach a computer-based display of educational material, with the intent of helping a student learn, understand, and memorize new material (Col. 5, lines 23-36).

With regard to claims 2 and 19, Parry et al. teach the concept of preventing the learner from advancing to a subsequent entity if he or she has answered a first entity incorrectly (Col. 3, lines 3-7; Col. 3, lines 56-60; Col. 3, lines 64-69). With regard to claim 19, Parry teaches the incorporation of a computer (Col. 2, lines 35-43).

With regard to claims 3, 13, and 20, Parry et al. teaches showing the student a few characters from words that were answered incorrectly (Col. 13, lines 27-31; Col. 25, lines 54-60). With regard to claim 20, Parry et al. disclose the incorporation of a computer (Col. 2, lines 35-43).

With regard to claims 4, 14, and 21, Parry et al. disclose providing the student with the number of letters in each missed word (Col. 25, lines 59-60). With regard to claim 21, Parry et al. disclose the incorporation of a computer (Col. 2, lines 35-43).

With regard to claims 9 and 23, Parry et al. disclose highlighting the errors made by the student (Col. 24, lines 44-46). With regard to claim 23, Parry et al. disclose the incorporation of a computer (Col. 2, lines 35-43).

With regard to claim 18, Parry et al. disclose implementing the invention in a computer program Col. 1, lines 6-10). Parry et al. fail to disclose the specific features of the learning exercises as described in claims 1, 11, and 18. These features are taught by Cousins, as shown above in the rejection to claim 1. It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teaching of Cousins into the invention of Parry et al. in order to provide a computerized method of teaching students to become familiar with text segments or keywords in preparation for a test.

With regard to claim 22, see the above rejection to claim 5.

With regard to claim 24, see the above rejection to claim 10.

With regard to claim 25, Parry et al. teach requesting the learner to type the unfamiliar entities for one or more times in view of the contextual presentation (Col. 12,

lines 18-19). Parry et al. fail to teach presenting one or more unfamiliar learning entities to the learner in a contextual presentation in question-answer form. Parry et al. fail to teach presenting the contextual presentation to the learner with one or more entities missing therefrom, the missing entities being expected to be filled in by the learner to complete the contextual presentation so as to prove that the learner has memorized the entities. Parry et al. fail to teach the limitation of monitoring each element of the entity provided by the learner. Parry et al. fail to teach the limitation of evaluating each learning element in response to the learning element provided by the learner before the learner completes each entity. Parry et al. fail to teach the limitations of hinting the learner with elements of the learning entities. Parry et al. fail to teach the limitation of prohibiting a learner from attempting to solve subsequent problems if he or she has incorrectly answered a first problem. Cousins discloses these features as shown above in the rejections to claims 10, 1, 3, 4, and 2, respectively. It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teaching of Cousins into the invention of Parry et al. in order to provide a computer based teaching environment in which helps the student memorize material by showing them parts of the material as hints. It would also be advantageous to prevent the student from solving subsequent problems after incorrectly answering a previous problem, so that the student is forced to get the first question right before proceeding.

With regard to claim 26, see the above rejection to claim 7.

4. Claims 8 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cousins in view of Wilson (US 6,186, 795). Cousins does not disclose requiring the student to memorize alphanumeric characters or numerals. Wilson teaches a memorization system designed to assist a student in memorizing numeric and textual information (Col. 1, lines 53-59; see also Fig. 2) It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teaching of Wilson into the invention of Cousins in order to provide a more versatile memorization system. Instead of using just words, a system using numeric characters would have the benefit of being applicable to science, engineering or math classes in which alphanumeric characters are encountered.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Blank (US 2003/0170596) discloses a literacy system in which the learner must memorize a sequence of characters in a string. Brown (US 2004/0023191) discloses an "Adaptive instructional process and system to facilitate oral and written language comprehension". Brown discloses the limitation of providing hints to the learner, such as "hint picture", "hint audio" and "hint text".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua D. Crabtree whose telephone number is 571-272-8962. The examiner can normally be reached on 8:00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDC

*Kathleen Mosser*  
KATHLEEN MOSSEY  
PRIMARY EXAMINER

**Notice of References Cited**

Application/Control No.

10/613,564

Applicant(s)/Patent Under  
Reexamination  
BERMAN, DENNIS R.

Examiner

Joshua D. Crabtree

Art Unit

3715

Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-5,141,439	08-1992	Cousins, Edward J.	434/178
*	B	US-6,077,085	06-2000	Parry et al.	434/322
*	C	US-6,186,795	02-2001	Wilson, Henry Allen	434/236
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

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	N					
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	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\* A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



# INFORMATION DISCLOSURE CITATION

PTO-1449

Complete if Known.

Application No.	10/613,564
Filing Date	7/2/2003
First Named Inventor	Dennis R. Berman
Group Art Unit	3713
Atty. Docket No.	TRV03-0001
Page Number	1 of 4

## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
JL	3,566,482	03/02/71	Morchand			10/24/68
	3,606,688	09/24/71	Zawels et al.			07/11/69
	3,671,668	06/20/72	Reiffel			11/18/68
	4,289,313	09/15/81	Delamontagne	273	256	09/07/79
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	4,833,610	05/23/89	Zamora et al.	364	419	03/07/88
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	4,958,284	09/18/90	Bishop et al.	364	419	12/06/88
	5,002,491	03/26/91	Abrahamson et al.	434	322	04/28/89
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↓	5,463,773	10/31/95	Sakakibara et al.	395	600	05/25/93

EXAMINER

*John D. Clark*

DATE CONSIDERED

4-10-06

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



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Page Number	2 of 4

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	5,885,087	03/23/99	Thomas	434	323	03/03/97
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EXAMINER

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EXAMINER	DATE CONSIDERED					
	4-10-06					

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	6,411,924	06/25/02	de Hila et al.	704	9	01/23/98
	6,461,166	10/08/02	Berman	434	323	10/17/00
	6,470,170	10/22/02	Chen et al.	434	350	05/16/01
	6,493,690	12/10/02	Bertrand et al.	706	45	02/10/00
	6,553,382	04/22/03	Hatori	707	102	03/14/96
	6,554,618	04/29/03	Lockwood	434	322	04/20/01
	6,584,470	06/24/03	Veale	707	102	03/01/01

## FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						Yes	No
JC	WO 97/18698	05/29/97	WIPO			<input type="checkbox"/>	<input checked="" type="checkbox"/>
JC	EP 1008975 A2	06/14/00	EP	G09B	7/04	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

JC	CROWDER, NORMAN A., Arithmetic of Computers. An Introduction to Binary and Octal Mathematics. A Tutor Text, 1958, pp I-iv and 1-18, Doubleday & Company, Garden City, NY.

EXAMINER

DATE CONSIDERED

4-10-06

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



# INFORMATION DISCLOSURE CITATION

PTO-1449

## Complete if Known

Application No.	10/613,564
Filing Date	7/2/2003
First Named Inventor	Dennis R. Berman
Group Art Unit	3713
Atty. Docket No.	TRV03-0001

## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
JC	3,715,811	02/13/73	Thompson et al.	434	310	10/13/70

## FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						Yes	No
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)


EXAMINER

*[Signature]*

DATE CONSIDERED

4-10-06

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## FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						Yes	No
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

JC	Spaced repetition - Wikipedia. Retrieved from the Internet on April 26, 2005: <URL: <a href="http://en.wikipedia.org/wiki/Spaced_repetition">http://en.wikipedia.org/wiki/Spaced_repetition</a> >.
JC	FullRecall. Retrieved from the Internet on April 25, 2005: <URL: <a href="http://www.fullrecall.com">http://www.fullrecall.com</a> >.
JC	Super Memory. Retrieved from the Internet on April 25, 2005: <URL: <a href="http://www.supermemo.com">http://www.supermemo.com</a> >.
EXAMINER	DATE CONSIDERED
<i>John D. White</i>	4-10-06

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



# INFORMATION DISCLOSURE CITATION

PTO-1449

## Complete if Known

Application No.	10/613,564
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Group Art Unit	3713
Atty. Docket No.	TRV03-0001

## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS
JC	2004/0002049	01-2004	Beavers et al.	434	350
	6,662,365	12-2003	Sullivan et al.	725	25
	6,755,662	06-2004	Fujino et al.	434	322
	2004/0009462	01-2004	McElwrath, Linda Kay	434	350
	6,526,257	02-2003	Doi et al.	434	350
	2001/0036619	11-2001	Kerwin, Patrick A.	434	118
	2003/0027122	02-2003	Stansvik, Bjorn	434	323
	2001/0053513	12-2001	Corn et al.	434	350
	2003/0049592	03-2003	Park, Nam-Kyo	434	322
✓	6,898,411	05-2005	Ziv-El et al.	434	350

## FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
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						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

JC	Spaced repetition. [online], [retrieved on April 26, 2005]. Retrieved from the Internet <URL: <a href="http://en.wikipedia.org/wiki/Spaced_repetition">http://en.wikipedia.org/wiki/Spaced_repetition</a> >
JC	Calinski. FullRecall. [online] [retrieved on April 25, 2005]. Retrieved from the Internet <URL: <a href="http://www.fullrecall.com">http://www.fullrecall.com</a> >
JC	Super Memory. [online], [retrieved on April 25, 2005]. Retrieved from the Internet <URL: <a href="http://www.supernemo.com">http://www.supernemo.com</a> >

EXAMINER

DATE CONSIDERED

4-10-06

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



# **INFORMATION DISCLOSURE CITATION**

PTO-1449

## **Complete if Known**

Application No.	10/613,564
Filing Date	7/2/2003
First Named Inventor	Dennis R. Berman
Group Art Unit	3713
Atty. Docket No.	TRV03-0001

## **U.S. PATENT DOCUMENTS**

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS
JC	5,727,950	03-1998	Cook et al.	434	350
	6,526,258	02-2003	Bejar et al.	434	350
	6,022,221	02-2000	Boon, John F.	434	156
	6,551,109	04-2003	Rudmik, Tom R.	434	322
	6,288,753	09-2001	DeNicola et al.	348	586
	6,769,917	08-2004	Fujino et al.	434	322
	6,112,049	08-2000	Sonnenfeld, Bruce	434	350
	6,755,661	06-2004	Sugimoto, Koichi	434	322

## **FOREIGN PATENT DOCUMENTS**

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						Yes	No
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>

## **OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)**


EXAMINER

*[Signature]*

DATE CONSIDERED

4-10-06

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.





## UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office  
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Washington, D.C. 20591  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,231	08/03/2001	Dennis R. Berman	29554.7	9092

27083 7590 09/04/2002  
HAYNES AND BOONE, LLP  
901 MAIN STREET, SUITE 3100  
DALLAS, TX 75202

RECEIVED

SEP 10 2002

HAYNES &amp; BOONE LLP.

EXAMINER

ALI, HYDER

ART UNIT

PAPER NUMBER

3747

DATE MAILED: 09/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

04 DEC 02 - 3 mo. response to OA due  
04 MAR 03 - DD response to OA due

Docketed 09.11.02By caf

# Office Action Summary

Application No.

09/923,231

Examiner

HYDER ALI

Applicant(s)

BERMAN, DENNIS R.

Art Unit

3747

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-30 is/are allowed.
- 6) ☒ Claim(s) 1-3, 13-16, 19, 20, 31 and 32 is/are rejected.
- 7) ☒ Claim(s) 4-12, 17, 18, 21 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3,13-16,19,20,31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goede (US 5,246,375) in view of Watt (5,511,793). Goede shows everything except the display device with a plurality of aligned border sections to form the mnemonic display, the border sections containing one or more guiding elements in a predetermined order. Watt shows the display device with a plurality of aligned border sections to form the mnemonic display, the border sections containing one or more guiding elements in a predetermined order (figure 47A). It would have been obvious to a person having ordinary skill in this art to modify Goede by employing the display device with a plurality of aligned border sections to form the mnemonic display, the border sections containing one or more guiding elements in a predetermined order in order to implement the grid learning system in a predetermined display area on a display device.

### ***Allowable Subject Matter***

Claims 23-30 are allowed.

Claims 4-12,17,18,21,22 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HYDER ALI whose telephone number is (703) 308-3949. The examiner can normally be reached on M-F (8:00-5:00).

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9302 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

HA  
August 28, 2002

Gene Mancino  
Supervisory Patent Examiner  
Group 1,700

# **Notice of References Cited**

Application/Control No.

09/923,231

Applicant(s)/Patent Under  
Reexamination  
BERMAN, DENNIS R.

Examiner

HYDER ALI

Art Unit

3747

Page 1 of 1

## **U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-5,511,793 A	04-1996	Watt, James S.	273/260
	B	US-5,246,375 A	09-1993	Goede, Wouter	263/73
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

## **FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N	WO 97/18698	05-1997	WIPO	McDERMOTT, P G	
	O					
	P					
	Q					
	R					
	S					
	T					

## **NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/435,993	05/12/2003	Dennis Ray Berman	R0355-00006	1414

28422 7590 11/15/2005

HOYT A. FLEMING III  
P.O. BOX 140678  
BOISE, ID 83714

EXAMINER

FRJSBY, KESHA

ART UNIT PAPER NUMBER

3715

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/435,993

Applicant(s)

BERMAN, DENNIS RAY

Examiner

Kesha Frisby

Art Unit

3715

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 May 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of.
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- Paper No(s)/Mail Date 7/22/05, 4/27/05, 11/24/04, 9/17/04, 8/3/04, 6/18/04, 4/14/04, 3/11/04, 2/11/04
- Other: \_\_\_\_\_

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claim 1 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,585,520. Although the conflicting claims are not identical, they are not patentably distinct from each other because "forming a mnemonic display", in the application, includes "implementing the grid system....to form a mnemonic display". Claims 2, 3, 6, 7 & 9 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 2, 3, 6, 7 & 11 of U.S. Patent No. 6,585,520 because they depend on the independent claim 1. Claims 10, 16 & 21 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 13, 19 & 30 of



U.S. Patent No. 6,585,520. The examiner uses rationale reasoned from legal precedent that an omission of an element with the consequent loss of its function is deemed obvious. See *In re Kuhle*, 188 U.S. P. Q. 7. Claims 11, 12 & 20 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 14, 15 & 20 of U.S. Patent No. 6,585,520 because they depend on the independent claims 10, 16 & 21.

***Information Disclosure Statement***

3. The information disclosure statement filed 7/22/2005, related to the Non-Patent Literature, has already been considered in the information disclosure statement that was filed 4/27/2005, therefore there is no need for the repetition of these Non-Patent Literature references. The examiner has drawn a line through the Non-Patent Literature references on the Information disclosure statement filed 7/22/2005 to represent this repetition of references and will also state they have not been considered. However, these Non-Patent Literature references have been considered on the information disclosure statement filed 4/27/2005 as the applicant can tell by the initials of the examiner next to Non-Patent Literature references on the 1449.

***Drawings***

4. The drawings are objected to because the term "Sriniramamurthy" in the specification does not match what is shown in figure 7 and what is illustrated in the drawings does not match the user interface display. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should

include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Specification***

5. The disclosure is objected to because of the following informalities: On page 6 paragraph 0024 line 5, "used" should be --use--. On page 11 paragraph 0035 line 3, the term "Srinirammamurthy" does not match what is shown in figure 7.

Appropriate correction is required.

#### ***Claim Objections***

6. Claim 6 is objected to because of the following informalities: "identifying" should be --identify--. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Goede (U.S. Patent Number 5,246,375).** Referring to claim 1, Goede discloses a method comprising: forming a mnemonic display (memory aiding device 10) by placing in a predetermined display area on a display device (Fig. 1 – substrate 12) at least one border section (Fig. 1 – dark solid line represents the border), the border section containing one or more guiding element (letters 14 and/or numerals 16) in a predetermined order (in this case going from A to S and 1-0); and placing one or more learning entities to be memorized by a user in the mnemonic display (Fig. 4b – for example 7736), wherein a first guiding element contained in each learning entity is aligned with a same guiding element in the border section (Fig. 4b – 6, 7 & 8 in column 4 of the recording means 22 corresponds to the numerals 16 outside the border section), and wherein locations of the learning entities with reference to the corresponding guiding elements of the border section assist the user to memorize the learning entities (location 18 – column 13 lines 36-54).

Referring to claim 2, Goede discloses wherein the guiding elements are a plurality of alphabets (Fig. 1 – letters 14).

Referring to claim 3, Goede discloses wherein the guiding elements are a plurality of numerals (Fig. 1 – numerals 16).

Referring to claim 4, wherein the learning entity includes one or more alphabets. Goede discloses the claimed invention except for the specific arrangement and/or content of indicia (printed matter) set forth in the claim(s). It has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack*, 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of use, such as; being able to remember addresses does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability.

The examiner asserts that the method comprising learning entities that consist of alphabets (letters) is the same structure claimed by applicant and the sole difference is in the content of the printed material. Thus, there is no novel and unobvious functional relationship between the printed matter (using numerals in the vertical column appose to alphabets) and the substrate (substrate 12), which is required for patentability.

Accordingly, there being no functional relationship of the printed material to the substrate, as noted above, there is no reason to give patentable weight to the content of the printed matter which, by itself, is non-statutory subject matter.

Referring to claim 5, Goede discloses wherein the learning entity includes one or more numerals (Fig. 4b – for example 7336).

Referring to claim 6, Goede discloses comprising a grid guiding system (grid system) superimposed on top of the mnemonic display to help identifying the location of each placed learning entity, the grid guiding system having a plurality of sections dividing the mnemonic display (column 1 lines 59-61).

Referring to claim 7, Goede discloses comprising connecting the placed learning entities with tracking signs, wherein a pattern of the tracking signs further assists the user to memorize the learning entities (Fig. 4b – going from left to right via the markings 30).

Referring to claim 8, Goede discloses wherein a location and a size of the mnemonic display is dynamically determined by an application used by the user (column 5 lines 37-42).

Referring to claim 9, Goede discloses the step of placing further includes implementing an indication sign aligning the first guiding element of at least one placed learning entity with the same guiding element in the border section (Fig. 4b – 6, 7 & 8 in column 4 of the recording means 22 corresponds to the numerals 16).

Referring to claim 10, Goede discloses a method comprising: implementing the grid learning system (column 1 line 60: grid system) on a display device (Fig. 1 – substrate 12) with at least one guiding row (Fig. 1 – the row that contains the alphabets A-S), the guiding row containing one or more guiding elements (Fig. 1 - alphabets A-S and numerals 1-0) in a predetermined order (in this case going from A to S and/or 1-0); and placing one or more learning entities in the grid learning system (Fig. 4b – for example 7336), wherein a first guiding element of each learning entity is aligned with a same

guiding element in the guiding row (Fig. 4b –6, 7 & 8 in column 4 of the recording means 22 corresponds to the numerals 16), and wherein locations of the learning entities with reference to the guiding elements of the guiding row assist the user to memorize the learning entity (location 18 – column 13 lines 36-54).

Referring to claim 11, Goede discloses wherein the guiding elements of the guiding row include at least one alphabet (Fig. 1 – letters 14).

Referring to claim 12, Goede discloses wherein the guiding elements of the guiding row include at least one numeral (Fig. 1 – numerals 16).

Referring to claim 13, The method of claim 10 wherein the learning entity includes at least one alphabet. Goede discloses the claimed invention except for the specific arrangement and/or content of indicia (printed matter) set forth in the claim(s). It has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack*, 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of use, such as; being able to remember addresses does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability.

The examiner asserts that the method comprising learning entities that include at least one alphabet (letter) is the same structure claimed by applicant and the sole difference is in the content of the printed material. Thus, there is no novel and unobvious functional relationship between the printed matter (using numerals in the

vertical column oppose to alphabets) and the substrate (substrate 12), which is required for patentability.

Accordingly, there being no functional relationship of the printed material to the substrate, as noted above, there is no reason to give patentable weight to the content of the printed matter which, by itself, is non-statutory subject matter.

Referring to claim 14, Goede discloses wherein the learning entity includes at least one numeral (Fig. 4b – for example 7336).

Referring to claim 15, Goede discloses further comprising at least one indication sign aligning the first guiding element of at least one placed learning entity with the same guiding element in the guiding row (Fig. 4b – 6, 7 & 8 in column 4 of the recording means 22 corresponds to the numerals 16).

Referring to claim 16, Goede discloses a method comprising: implementing the grid learning system (grid system) on a display device (Fig. 1 – substrate 12) with one or more aligned border sections (Fig. 1 – dark solid line represents the border), the border sections containing one or more guiding elements (Fig. 1 – letters 14 and/or numerals 16) in a predetermined order (in this case going from A to S and 1-0), the number of the border sections being determined by the shape of the display device (letters A-S is all that could fit on the display device & column 5 lines 37-42); identifying one or more learning entities to be memorized by a user of the mnemonic display (Fig. 4b – for example 7336), and placing the learning entities in the grid learning system (Fig. 4b), wherein a first guiding element contained in each learning entity is aligned with a same guiding element in at least one border section row (Fig. 4b – 6, 7 & 8 in column 4 of the

recording means 22 corresponds to the numerals 16), and wherein the shape of the display device (column 5 lines 37-42) and locations of the learning entities with reference to the corresponding border sections assist the user to memorize the learning entities location 18 – column 13 lines 36-54).

Referring to claim 17, Geode discloses wherein each learning entity includes one or more alphabets. Goede discloses the claimed invention except for the specific arrangement and/or content of indicia (printed matter) set forth in the claim(s). It has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack*, 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of use, such as; being able to remember addresses does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability.

The examiner asserts that the method comprising learning entities include one or more alphabets (letters) has the same structure claimed by applicant and the sole difference is in the content of the printed material. Thus, there is no novel and unobvious functional relationship between the printed matter (using numerals in the vertical column oppose to alphabets) and the substrate (substrate 12), which is required for patentability.



Accordingly, there being no functional relationship of the printed material to the substrate, as noted above, there is no reason to give patentable weight to the content of the printed matter which, by itself, is non-statutory subject matter.

Referring to claim 18, The method of claim 16 wherein the learning entities are a plurality of syllables of a keyword to be memorized by the user. Goede discloses the claimed invention except for the specific arrangement and/or content of indicia (printed matter) set forth in the claim(s). It has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack*, 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of use, such as, being able to remember addresses does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability.

The examiner asserts that the method comprising learning entities are a plurality of syllables of a keyword has the same structure claimed by applicant and the sole difference is in the content of the printed material. Thus, there is no novel and unobvious functional relationship between the printed matter (using numerals in the vertical column oppose to alphabets, as well as, the plurality of numerals could be equivalent to the amount of syllables, for example, if there are four numerals then why can't there be four syllables) and the substrate (substrate 12), which is required for patentability.

Accordingly, there being no functional relationship of the printed material to the substrate, as noted above, there is no reason to give patentable weight to the content of the printed matter which, by itself, is non-statutory subject matter.

Referring to claim 19, Geode discloses wherein each learning entity includes one or more numerals (Fig. 4b – for example 7336).

Referring to claim 19, Geode discloses wherein each learning entity includes one or more numerals (Fig. 4b – for example 7336).

Referring to claim 20, Geode discloses further comprising connecting the placed learning entities with tracking signs, wherein a pattern of the tracking signs further assists the user to memorize the learning entities (Fig. 4b – going from left to right via the markings 30).

Referring to claim 21, Geode discloses a method comprising: introducing, to the user, the learning entities (Fig. 4b – for example 7736) initially by placing the learning entities in a mnemonic display (Fig. 1 - memory aiding device 10), the mnemonic display being implemented on a predetermined display area on the display device (Fig. 1 – substrate 12) having one or more border sections (Fig. 1 – dark solid line represents the border), each learning entity being aligned with a guiding element in at least one border section (Fig. 4b – 6, 7 & 8 in column 4 of the recording means 22 corresponds to the numerals 16 outside the border section); and instructing the user to recall the learning entities by visualizing the locations of the placed learning entities in the mnemonic display with reference to the guiding elements (location 18 – column 13 lines 36-54).

***Citation of Pertinent Prior Art***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wilson (U.S. Patent Number 5,772,441) teaches a learning and memorization system that combines the coordination of the alphabetic mnemonics and number integers.

Wilson (U.S. Patent Number 6,186,795) teaches a learning and memorization system that combines the coordination of the alphabetic mnemonics and number integers.

Berman (U.S. Patent Number 6,585,520) teaches a method and system for enhancing memorization by using a mnemonic display.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kesha Frisby whose telephone number is 571-272-8774. The examiner can normally be reached on Mon. - Wed. 7-4:30pm, Thu. 6:30-4pm & Fri. 7-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kesha Frisby  
Patent Examiner  
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Kyf  
kyf

*Monica S. Carter*  
**MONICA S. CARTER**  
**PRIMARY EXAMINER**  
SPE, AU 3715



# INFORMATION DISCLOSURE CITATION

PTO-1449

## Complete If Known

Application No.	10/435,993
Filing Date	5/12/2003
First Named Inventor	Dennis R. Berman
Group Art Unit	3713 3715 <i>KVF</i>
Atty. Docket No.	TRV01-0001-1

## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS
<i>KVF</i>	5,727,950	03-1998	Cook et al.	434	350
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	6,022,221	02-2000	Boon, John F.	434	156
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	6,769,917	08-2004	Fujino et al.	434	322
	6,112,049	08-2000	Sonnenfeld, Bruce	434	350
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EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
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## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)


EXAMINER

*Kathy Tudy*

DATE CONSIDERED

*11/10/05*

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Application No.	10/435,993
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First Named Inventor	Dennis R. Berman
Group Art Unit	3743-3715 KYF
Atty. Docket No.	TRV01-0001-1

## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS
KYF	2004/0002049	01-2004	Beavers et al.	434	350
KYF	6,662,365	12-2003	Sullivan et al.	725	25
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NOT CONSIDERED KYF	Spaced-repetition [online]. [retrieved on April 26, 2005]. Retrieved from the Internet <URL: <a href="http://en.wikipedia.org/wiki/Spaced-repetition">http://en.wikipedia.org/wiki/Spaced-repetition</a> >
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EXAMINER

*Kisha Y. Andley*

DATE RECEIVED

11/08/05

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Page 2



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First Named Inventor	Dennis R. Berman
Group Art Unit	3713 3715 LNF
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## U.S. PATENT DOCUMENTS

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## FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
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						<input type="checkbox"/>	<input type="checkbox"/>

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KYF	Spaced repetition – Wikipedia. Retrieved from the Internet on April 25, 2005: <URL: <a href="http://en.wikipedia.org/wiki/Spaced_repetition">http://en.wikipedia.org/wiki/Spaced_repetition</a> >.
KYF	FullRecall. Retrieved from the Internet on April 25, 2005: <URL: <a href="http://www.fullrecall.com">http://www.fullrecall.com</a> >.
KYF	Super Memory. Retrieved from the Internet on April 25, 2005: <URL: <a href="http://www.supermemo.com">http://www.supermemo.com</a> >.

EXAMINER <i>Joshua Y. Hudley</i>	DATE CONSIDERED 11/08/05
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Group Art Unit	3213 3715 KYF
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## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
KYF	3,408,749	Nov. 5, 1968	Brudner			April 11, 1967
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EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
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Page 4





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First Named Inventor	Dennis R. Berman
Group Art Unit	<del>3743</del> 3715 <i>KYF</i>
Atty. Docket No.	TRV01-0001-1

## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
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## FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
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## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)


EXAMINER <i>Richard J. Holey</i>	DATE CONSIDERED <i>11/08/05</i>
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*Page 5*



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First Named Inventor	Dennis R. Berman
Group Art Unit	<del>3715</del> 3715 K4F
Atty. Docket No.	TRV01-0001-1

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EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE

## FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
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						<input type="checkbox"/>	<input type="checkbox"/>
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EXAMINER <i>Norman A. Crowder</i>	DATE CONSIDERED <i>11/08/05</i>
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Page 6



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Group Art Unit	3713 3715
Atty. Docket No.	TRV01-0001-1
Page Number	

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EXAMINER

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Page 7



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First Named Inventor	Berman
Group Art Unit	3713 3715 KYF
Atty. Docket No.	TRV01-0001-1
Page Number	

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	6,024,577	02/15/00	Wadahama et al.	434	322	11/04/97
EXAMINER Kishor Y. Aridly	DATE CONSIDERED 11/10/05					

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



# INFORMATION DISCLOSURE CITATION

PTO-1449

## Complete if Known

Application No.	10/435,993
Filing Date	5/12/2003
First Named Inventor	Berman
Group Art Unit	3213 3715 KYF
Atty. Docket No.	TRV01-0001-1
Page Number	

## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
KYF	6,029,043	02/22/00	Ho et al.	434	350	01/29/98
	6,067,538	05/23/00	Zorba et al.	706	47	12/22/98
	6,077,085	06/20/00	Parry et al.	434	322	05/19/98
	6,086,382	07/11/00	Thomas	434	323	02/22/99
	6,115,683	09/05/00	Burstein et al.	704	001	03/31/97
	6,120,297	09/19/00	Morse, III et al.	434	169	08/25/98
	6,125,358	09/26/00	Hubbell et al.	706	11	12/22/98
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	6,148,174	11/14/00	Remschel	434	350	11/14/97
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EXAMINER

*KYF*

DATE CONSIDERED

11/10/05

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# INFORMATION DISCLOSURE CITATION

PTO-1449

## Complete if Known

Application No.	10/435,993
Filing Date	5/12/2003
First Named Inventor	Berman
Group Art Unit	3713 3715 <sup>KYF</sup>
Atty. Docket No.	TRV01-0001-1
Page Number	

## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
KYF	6,302,698	10/16/01	Ziv-EI	434	323	02/16/99
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## FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						Yes	No
KYF	EP 1008975 A2	06/14/00	EP	G09B	7/04	<input checked="" type="checkbox"/>	<input type="checkbox"/>
KYF	WO 97/18698	05/29/97	WIPO			<input checked="" type="checkbox"/>	<input type="checkbox"/>

EXAMINER

*John O. Hickey*

DATE CONSIDERED

11/10/05

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Page 10

<b>Notice of References Cited</b>	Application/Control No. 10/435,993	Applicant(s)/Patent Under Reexamination BERMAN, DENNIS RAY	
	Examiner Kesha Frisby	Art Unit 3715	Page 1 of 1

#### U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-5,772,441	06-1998	Wilson, Henry Allen	434/236
*	B	US-6,186,795	02-2001	Wilson, Henry Allen	434/236
*	C	US-6,585,520	07-2003	Berman, Dennis R.	434/236
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

#### FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

#### NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/815,341

03/31/2004

Dennis R. Berman

TRV03-0001-1

8341

28422

7590

04/06/2007

HOYT A. FLEMING III

P.O. BOX 140678

BOISE, ID 83714

EXAMINER

LEE, BENJAMIN WILLIAM

ART UNIT

PAPER NUMBER

3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
--	-----------	---------------

3 MONTHS

04/06/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.



# Office Action Summary

Application No.

10/815,341

Applicant(s)

BERMAN, DENNIS R

Examiner

Benjamin W. Lee

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 19 July 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 7-19-2006; 12-11-2006.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The amendment filed on 07/19/2006 has been entered. Claims 1-39 are pending in the application and claims 1, 14, and 27 have been amended.

#### *Claim Rejections - 35 USC § 101*

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-39 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Re claims 1, 14, and 27: The claims are directed toward a program storage device storing a computer program. The computer program is recorded on a computer-readable medium and thus falls under the four statutory categories of invention (i.e. process, machine, manufacture, and composition of matter). However, the invention disclosed in claims 1, 14, and 27 includes the judicial exception of an abstract idea (determining whether a student correctly answered a question). No physical transformation is present in the claims to establish a practical application of the abstract idea. Furthermore, claims 1, 14, and 27 do not produce a useful, concrete, and tangible result. A "determination of whether the student correctly answered the at least one of the plurality of questions is determined at least in part by comparing the student-provided keyword to at least one of the plurality of keywords" is useful and concrete, but not necessarily

Art Unit: 3714

tangible. A "determination" is a completely abstract concept and does not guarantee a real-world result. Therefore, claims 1, 14, and 27 are directed to non-statutory subject matter.

Re claims 2-13, 15-26, and 28-39: The claims are dependent on one of claims 1, 14, or 27 and do not disclose any further steps that would produce useful, concrete, and tangible results. Therefore, claims 2-13, 15-26, and 28-39 are directed to non-statutory subject matter.

*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 6, 8-15, 19, 21-28, 32, and 34-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over McElwrath (US 2004/0009462) in view of Ziv-el et al. (US 6,898,411 B2).

Re claims 1, 14, and 27: McElwrath discloses a program storage device/learning system database storing a computer program, the computer program for execution by a computer system having a processor and a memory (see ¶ [0069]), the computer program when executed by the computer system performing the following: requesting a Web server to serve a Web document/image/homepage, the Web document including a plurality of objects that provide the

ability to select/click on one training course/training session from a plurality (i.e. menu) of training courses/training sessions (see ¶ [0633]). McElwrath further discloses at least one of the plurality of training courses including a plurality of questions and a plurality of answers (see ¶ [0353]).

However, McElwrath fails to disclose the training courses include a plurality of keywords that form a part of the answers, the at least one of the plurality of questions is answered by a student providing a student-provided-keyword, and a determination of whether the student correctly answered the at least one of the plurality of questions is determined at least in part by comparing the student-provided-keyword to at least one of the plurality of keywords.

Ziv-el et al. teaches a method and system for online teaching using web pages. Teachers generate exercises for students related to a web page. The teacher designates a web page and questions and answers related to the web page for distribution to students (see Fig. 1; col. 4, lines 17-30; col. 4, lines 44-50). One of the embodiments of the invention allows for "fill-in-the-blank" type questions and responses (see col. 4, lines 24-27). The response of the students may be automatically checked for correctness by directly comparing the response to the teacher's answer (see Fig. 5; col. 6, lines 61-66). Thus, a teacher provides questions, web pages/answers (the web page contains the answers to the question), keywords that form a part of the answers/web pages, student-provided-keywords (see Fig. 6; col. 7, lines 49-65), and a determination of whether the students correctly answered the question based on a comparison of the student-provided-keyword and at least one of the keywords.

Therefore, in view of Ziv-el et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to add the question/answer system incorporating web

Art Unit: 3714

pages of Ziv-el et al. to the learning system of McElwrath in order to provide exercises to students that take advantage of the variety and depth of material available on the World Wide Web.

Re claims 2, 15, and 28: The teachings of McElwrath as modified by Ziv-el et al. as applied to claims 1, 14, and 27 above have been discussed. McElwrath further discloses an element/title that indicates that one of the plurality of training courses is available (see ¶ [0633]).

Re claims 6, 19 and 32: The teachings of McElwrath as modified by Ziv-el et al. as applied to claims 1, 14, and 27 above have been discussed. McElwrath further discloses the Web document/image includes an element that indicates that one of the plurality of training courses/modules within a course was previously completed by a user (see ¶ [0189]).

Re claims 8, 21, and 34: The teachings of McElwrath as modified by Ziv-el et al. as applied to claims 1, 14, and 27 above have been discussed. McElwrath further discloses the Web document/image includes an element that identifies the title of at least one training course (see ¶ [0633]).

Re claims 9, 22, and 35: The teachings of McElwrath as modified by Ziv-el et al. as applied to claims 8, 21, and 34 above have been discussed. McElwrath further discloses the element is one of a plurality of objects (see ¶ [0633]).

Re claims 10, 11, 23, 24, and 36: The teachings of McElwrath as modified by Ziv-el et al. as applied to claims 1, 14, and 27 above have been discussed. McElwrath further discloses the Web document/image includes an element that identifies the number of questions in at least one training course (see ¶ [0143], lines 5-7).

Re claims 12, 13, 25, and 26: The teachings of McElwrath as modified by Ziv-el et al. as applied to claims 1 and 14 above have been discussed. McElwrath further discloses at least one training course from the plurality of training courses includes at least one session and the Web document/image includes an element/session number that identifies the number of sessions in the at least one training course (see ¶ [0738]).

Re claim 37: The teachings of McElwrath as modified by Ziv-el et al. as applied to claim 27 above have been discussed. McElwrath further discloses the at least one training session from the plurality of training sessions includes at least one part and the Web document includes an element that identifies the number of parts/modules in the at least one training session (see ¶ [0556]).

Re claim 38: The teachings of McElwrath as modified by Ziv-el et al. as applied to claim 27 above have been discussed. McElwrath further discloses the at least one training session from the plurality of training sessions includes at least one training day and wherein the Web document includes an element that identifies the number of training days in the at least one training sessions (see ¶ [0191] - ¶ [0192]).

Re claim 39: The teachings of McElwrath as modified by Ziv-el et al. as applied to claim 38 above have been discussed. McElwrath further discloses the Web document includes an element/calendar that identifies the number of training days completed in the at least one training session (see ¶ [0192] and ¶ [0200]).

6. Claims 3-5, 16-18, and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over McElwrath as modified by Ziv-el et al. as applied to claims 1, 2, 14, 15, 27, and 28 above, and further in view of Sullivan et al. (US 6,662,365 B1).

Re claims 3, 16, and 29: The teachings of McElwrath as modified by Ziv-el et al. as applied to claims 2, 15, and 28 above have been discussed.

However, the teachings of McElwrath as modified by Ziv-el et al. do not disclose the element is an icon having the shape of an unlocked padlock.

Sullivan et al. teaches the concept of using padlock icons (see col. 7, lines 12-26).

Therefore, in view of Sullivan et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate an icon having the shape of an unlocked padlock into the method and system of McElwrath as modified by Ziv-el et al. in order to provide a visual representation of the status of a menu selection item.

Re claims 4, 5, 17, 18, 30, and 31: The teachings of McElwrath as modified by Ziv-el et al. as applied to claims 1, 14, and 27 above have been discussed.

However, the teachings of McElwrath as modified by Ziv-el et al. do not disclose the Web document/image includes an element that indicates that one of the plurality of courses is unavailable and element is an icon having the shape of a locked padlock.

Sullivan et al. teaches the concept of using padlock icons (see col. 7, lines 12-26).

Therefore, in view of Sullivan et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate an icon having the shape of a locked padlock to indicate a course is unavailable in order to provide a visual representation of the status of a menu selection item.

7. Claims 7, 20, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over McElwrath as modified by Ziv-el et al. as applied to claims 6, 19, and 32 above, and further in view of Beavers et al. (US 2004/0002049).

The teachings of McElwrath as modified by Ziv-el et al. as applied to claims 6, 19, and 32 above have been discussed.

However, the teachings of McElwrath as modified by Ziv-el et al. fail to disclose the element is an icon having the shape of a check.

Beavers et al. teaches a checkmark icon (see ¶ [148]).

Therefore, in view of Beavers et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate an icon having the shape of a check into the method and system of McElwrath as modified by Ziv-el et al. in order to indicate what selection was made.



*Response to Arguments*

8. Applicant's arguments with respect to claims 1-39 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin W. Lee whose telephone number is 571-270-1346. The examiner can normally be reached on Mon - Thurs (8:30AM-6PM), or Alt. Fri (8:30AM-5PM).

Art Unit: 3714

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

bwl/  
Benjamin W. Lee  
March 29, 2007

  
KATHLEEN MOSSER  
PRIMARY EXAMINER



# **INFORMATION DISCLOSURE CITATION**

**PTO-1449**

## *Complete if Known*

Application No.	10/815,341
Filing Date	3/31/2004
First Named Inventor	Dennis R. Berman
Group Art Unit	<del>3715</del> 3714
Atty. Docket No.	TRV03-0001-1

## **U.S. PATENT DOCUMENTS**

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASSIFICATION
/BWL/	5,141,439	08-1992	Cousins, Edward J.	434/178
/BWL/	6,186,795	02-2001	Wilson, Henry Allen	434/236

## **FOREIGN PATENT DOCUMENTS**

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						Yes	No
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>

## **OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)**


EXAMINER /Benjamin Lee/

DATE CONSIDERED 03/27/2007

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



# INFORMATION DISCLOSURE CITATION

PTO-1449

## Complete if Known

Application No.	10/815,341
Filing Date	3/31/2004
First Named Inventor	Dennis R. Berman
Group Art Unit	<del>3715</del> 3714
Atty. Docket No.	TRV03-0001-1

## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	DOCUMENT NO.	DATE MM-YYYY	NAME	CLASSIFICATION
/BWL/	2003/0077559	04-2003	Braunberger et al.	434/322

## FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	DOCUMENT NO.	DATE MM-YYYY	COUNTRY	CLASSIFICATION	Translation	
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					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)


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/Benjamin Lee/

DATE CONSIDERED

03/27/2007

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,341	03/31/2004	Dennis R. Berman	TRV03-0001-1	8341
28422	7590	07/20/2006	EXAMINER	
HOYT A. FLEMING III P.O. BOX 140678 BOISE, ID 83714			HARRIS, CHANDA L	
			ART UNIT	PAPER NUMBER
			3715	

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

### Interview Summary

Application No.

10/815,341

Applicant(s)

BERMAN, DENNIS R.

Examiner

Chanda L. Harris

Art Unit

3715

All participants (applicant, applicant's representative, PTO personnel):

(1) Chanda L. Harris.

(3) \_\_\_\_\_.

(2) Hoyt Fleming.

(4) \_\_\_\_\_.

Date of Interview: 17 July 2006.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1.

Identification of prior art discussed: Fujino et al. (US 6,755,662).

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: We discussed Applicant's draft amendment to claim 1. It appears that Fujino does not disclose "wherein a determination of whether the student correctly answered the at least one question is determined at least in part by comparing the student-provided-keyword to at least one of the plurality of keywords." Applicant will respond in due course to the last office action.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Chanda L. Harris  
Examiner's signature, if required



## UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,341	03/31/2004	Dennis R. Berman	TRV03-0001-1	8341
28422	7590	04/19/2006	EXAMINER	
HOYT A. FLEMING III P.O. BOX 140678 BOISE, ID 83714			HARRIS, CHANDA L.	
			ART UNIT	PAPER NUMBER
			3715	

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/815,341

Applicant(s)

BERMAN, DENNIS R.

Examiner

Chanda L. Harris

Art Unit

3715

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2005.  
 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-39 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/03)  
 Paper No(s)/Mail Date 11/4/05  
 4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date, \_\_\_\_\_.  
 5) ☐ Notice of Informal Patent Application (PTO-152)  
 6) ☐ Other: \_\_\_\_\_



## **DETAILED ACTION**

### ***Status of Claims***

In response to the arguments filed 11/4/05, Claims 1-39 are pending.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 1-39 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.** The claimed invention does not provide a practical application that entails transforming an article or physical object to a different state or thing. In addition, the claimed invention does not produce a useful, concrete, and tangible result.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-2, 6, 8-15, 19, 21-28, 32, and 34-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over McElwrath (US 2004/0009462) in view of Fujino et al. (US**

**6,755,662). The rejections from the previous office action are maintained and are incorporated herein by reference.**

1. [Claims 1,14,27]: Regarding Claims 1,14, and 27, McElwrath discloses a program storage device, the program storage device (i.e., learning system database) containing computer readable instructions, that when executed by a computer, perform the following act: requesting a Web server to serve a Web document/image (i.e., homepage), the Web document/image including a plurality of objects that provide the ability to select (i.e., click on) one training course/training session from a plurality (i.e., menu) of training courses/training sessions. See p.29, [0633]. McElwrath discloses at least one of the plurality of training courses including a plurality of questions and a plurality of answers. See p.16, [0353].

McElwrath does not disclose expressly in addition to the plurality of answers, a plurality of keywords that form a part of the answers. However, Fujino teaches such (i.e., Keywords extracted from the questions and answers are recorded in "Question keyword" and "Answer keyword.") in Col.4: 31-32. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a plurality of keywords that form a part of the answers into the method and system of McElwrath, in light of the teaching of Fujino, in order to enable a student to select a question compatible with his/her own question.

2. [Claims 2,15,28]: Regarding Claims 2,15, and 28, McElwrath discloses an element (i.e., title) that indicates that one of the plurality of training courses is available. See p.29, [0633].

3. [Claims 6,19,32]: Regarding Claims 6,19, and 32, McElwrath discloses wherein the Web document includes an element that indicates that one of the plurality of training courses (i.e., modules within a course) was previously completed by a user. See p.10, [0189].

4. [Claims 8,21,34]: Regarding Claims 8, 21, and 34, McElwrath discloses wherein the Web document includes an element that identifies the title of at least one training course. See p.29, [0633].

5. [Claims 9,22,35]: Regarding Claims 9,22, and 35, McElwrath discloses wherein the element is one of the plurality of objects. See p.29, [0633].

6. [Claims 10-11, 23-24,36]: Regarding Claims 10-11,23-24, and 36 McElwrath discloses wherein the Web document includes an element that identifies the number of questions (i.e., 120 questions) in at least one training course and wherein the element is one of the plurality of objects. See p.8, [0143].

7. [Claims 12-13, 25-26]: Regarding Claims 12-13 and 25-26, McElwrath discloses wherein at least one training course from the plurality of training courses includes at least one session and wherein the Web document includes an element (i.e., session number) that identifies the number of sessions in the at least one training course. See p.33, [0738].

8. [Claim 37]: Regarding Claim 37, McElwrath discloses wherein the at least one training session from the plurality of training sessions includes at least one part and wherein the Web document includes an element that identifies the number of parts (i.e., modules) in the at least one training session. See p.24, [0556].

9. [Claim 38]: Regarding Claim 38, McElwrath discloses wherein the at least one training session from the plurality of training sessions includes at least one training day and wherein the Web document includes an element that identifies the number (i.e., twenty days) of training days in the at in the at least one training session. See p.10, [0191-0192].

10.[Claim 39]: Regarding Claim 39, McElwrath discloses wherein the Web document includes an element (i.e., calendar) that identifies the number of training days completed in the at least one training session. See p. 11, [01920 and [0200].

**Claim 3-5,16-18, and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over McElwrath/Fujino as applied to claims 1,2,14,15, and 28 above, and further in view of Sullivan et al. (US 6,662,365).**

1. [Claims 3,16,29]: Regarding Claims 3,16, and 29, McElwrath/Fujino does not disclose expressly wherein the element is an icon having the shape of an unlocked padlock. However, Sullivan teaches the concept of using padlock icons in Col.7: 12-26. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate an icon having the shape of an unlocked padlocked into the method and system of McElwrath/Fujino, in light of the teaching of Sullivan, in order to indicate the status of a menu selection item.

2. [Claims 4-5,17-18,30-31]: Regarding Claims 4-5,17-18, and 30-31, McElwrath/Fujino does not disclose expressly wherein the Web document includes an element that indicates that one of the plurality of training courses is unavailable and wherein the

element is an icon having the shape of a locked padlock. However, Sullivan teaches such in Col.7: 12-26. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of McElwrath/Fujino, in light of the teaching of Sullivan, in order to provide an iconic indication of the status of a menu selection item.

**Claims 7,20, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over McElwrath/Fujino as applied to claims 6, 19 and 32 above, and further in view of Beavers et al. (US 2004/0002049).**

[Claims 7,20,33]: Regarding Claims 7,20, and 33, McElwrath/Fujino does not disclose expressly wherein the element is an icon having the shape of a check. However, Beavers teaches such (i.e., checkmark icon) on p.14, [0148]. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate an icon having the shape of a check into the method and system of McElwrath/Fujino, in light of the teaching of Beavers, in order to indicate what selection was made.

### ***Response to Arguments***

Applicant's arguments have been fully considered but they are not persuasive. This action is made NON-FINAL in light of the new grounds of rejection stated above. Applicant argues that the combination of McElwrath and Fujino et al. does not teach all of the elements of Claims 1,14, and 27. Applicant submits that Fujino et al. does not disclose at least one of the plurality of training courses/sessions including a plurality of

questions, a plurality of answers, and, in addition to the plurality of answers, a plurality of keywords that form a part of the answers. Further, Applicant alleges that in Fujino et al., the disclosed FAQ questions, answers and answer keywords are not a part of the disclosed educational course or not included in an educational course. However, Examiner disagrees:

*After a student starts taking a course and when the student has a question to ask, the student conducts a FAQ search to obtain a question which accurately expresses what he/she wants to ask. Col.4: 13-17 (emphasis added)*

*When a request for starting a course is received from a student (A2), a level of the student is judged (A3). By comparing the judged student's level and the FAQ level, the FAQ suitable for the student is presented. Col.4: 46-49 (emphasis added)*

Thus, Fujino et al. does disclose FAQ questions, answers and answer keywords as part of the disclosed educational and as being included in an educational course. Therefore, the combination of McElwrath and Fujino et al. does disclose all of the elements of Claims 1, 14, and 27.

Applicant alleges that Fujino et al. separates the FAQs from the educational courses. However, Examiner disagrees. Applicant is directed to the previous response that references citations in Fujino et al. that clearly indicate that the FAQs are not separated from the educational courses. Thus, Examiner maintains that it is proper to combine Fujino et al. with McElwrath.


Applicant alleges that combining McElwrath with Fujino et al. changes the principle operation of McElwrath. However, Examiner disagrees. Examiners relies on Fujino et al. solely for the teaching of at least one of the plurality of training courses including a plurality of keywords that form a part of the answers. This modification does

not change the principle operation of McElwarth. Therefore, the teaching of Fujino et al. is sufficient to render the claims prima facie obvious. Furthermore, the rejection from the previous office action is maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 571-272-4448. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Chanda L. Harris  
Primary Examiner  
Art Unit 3715



# **INFORMATION DISCLOSURE CITATION**

PTO-1449

## *Complete if Known*

Application No.	10/815,341
Filing Date	3/31/2004
First Named Inventor	Dennis R. Berman
Group Art Unit	3714
Atty. Docket No.	TRV03-0001-1

## **U.S. PATENT DOCUMENTS**

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS
CH	5,727,950	03-1998	Cook et al.	<del>434</del>	<del>350</del>
CH	6,526,258	02-2003	Bejar et al.	<del>434</del>	<del>350</del>
CH	6,022,221	02-2000	Boon, John F.	<del>434</del>	<del>130</del>
CH	6,551,109	04-2003	Rudmik, Tom R.	<del>434</del>	<del>322</del>
CH	6,288,753	09-2001	DeNicola et al.	<del>348</del>	<del>588</del>
CH	6,769,917	08-2004	Fujino et al.	<del>434</del>	<del>322</del>
CH	6,112,049	08-2000	Sonnenfeld, Bruce	<del>434</del>	<del>350</del>
CH	6,755,661	06-2004	Sugimoto, Koichi	<del>434</del>	<del>322</del>

## **FOREIGN PATENT DOCUMENTS**

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						Yes	No
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>

## **OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)**


EXAMINER

/Chanda Harris/

DATE CONSIDERED

04/15/2006

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.





# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,341	03/31/2004	Dennis R. Berman	TRV03-0001-1	8341

28422 7590 06/14/2005

HOYT A. FLEMING III  
P.O. BOX 140678  
BOISE, ID 83714

EXAMINER

HARRIS, CHANDA L

ART UNIT PAPER NUMBER

3714

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/815,341

Applicant(s)

BERMAN, DENNIS R.

Examiner

Chanda L. Harris

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/31/04, 9/27/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statement filed 4/27/05 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.
2. The information disclosure statement filed 4/27/05 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the documents are not in the proper form for the citation of electronic documents. See MPEP 707.05(e) for the guidelines for citing references retrieved from electronic resources. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

***Specification***

1. The use of the trademarks JAVASCRIPT, MICROSOFT INTERNET EXPLORER, MICROSOFT WINDOWS, DIRECTX, and OPENGL have been noted in this application. Applicant is required to review the specification for any other instances of trademarks and make the appropriate corrections. They should be capitalized wherever they appear and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

2. The disclosure is objected to because of the following informalities: Page 1, Line 10: "a and" should be -- an --.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-2, 6, 8-15, 19, 21-28, 32, and 34-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over McElwrath (US 2004/0009462) in view of Fujino et al. (US 6,755,662).**

1. [Claims 1,14,27]: Regarding Claims 1,14, and 27, McElwrath discloses a program storage device, the program storage device (i.e., learning system database) containing computer readable instructions, that when executed by a computer, perform the following act: requesting a Web server to serve a Web document/image (i.e., homepage), the Web document/image including a plurality of objects that provide the ability to select (i.e., click on) one training course/training session from a plurality (i.e., menu) of training courses/training sessions. See p.29, [0633]. McElwrath discloses at least one of the plurality of training courses including a plurality of questions and a plurality of answers. See p.16, [0353].

McElwrath does not disclose expressly in addition to the plurality of answers, a plurality of keywords that form a part of the answers. However, Fujino teaches such (i.e., Keywords extracted from the questions and answers are recorded in "Question keyword" and "Answer keyword.") in Col.4: 31-32. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a plurality of keywords that form a part of the answers into the method and system of McElwrath, in light of the teaching of Fujino, in order to enable a student to select a question compatible with his/her own question.

2. [Claims 2,15,28]: Regarding Claims 2,15, and 28, McElwrath discloses an element

(i.e., title) that indicates that one of the plurality of training courses is available. See p.29, [0633].

3. [Claims 6,19,32]: Regarding Claims 6,19, and 32, McElwrath discloses wherein the Web document includes an element that indicates that one of the plurality of training courses (i.e., modules within a course) was previously completed by a user. See p.10, [0189].

4. [Claims 8,21,34]: Regarding Claims 8, 21, and 34, McElwrath discloses wherein the Web document includes an element that identifies the title of at least one training course. See p.29, [0633].

5. [Claims 9,22,35]: Regarding Claims 9,22, and 35, McElwrath discloses wherein the element is one of the plurality of objects. See p.29, [0633].

6. [Claims 10-11, 23-24,36]: Regarding Claims 10-11,23-24, and 36 McElwrath discloses wherein the Web document includes an element that identifies the number of questions (i.e., 120 questions) in at least one training course and wherein the element is one of the plurality of objects. See p.8, [0143].

7. [Claims 12-13, 25-26]: Regarding Claims 12-13 and 25-26, McElwrath discloses wherein at least one training course from the plurality of training courses includes at least one session and wherein the Web document includes an element (i.e., session number) that identifies the number of sessions in the at least one training course. See p.33, [0738].

8. [Claim 37]: Regarding Claim 37, McElwrath discloses wherein the at least one

training session from the plurality of training sessions includes at least one part and wherein the Web document includes an element that identifies the number of parts (i.e., modules) in the at least one training session. See p.24, [0556].

9. [Claim 38]: Regarding Claim 38, McElwrath discloses wherein the at least one training session from the plurality of training sessions includes at least one training day and wherein the Web document includes an element that identifies the number (i.e., twenty days) of training days in the at in the at least one training session. See p.10, [0191-0192].

10.[Claim 39]: Regarding Claim 39, McElwrath discloses wherein the Web document includes an element (i.e., calendar) that identifies the number of training days completed in the at least one training session. See p. 11, [01920 and [0200].

**Claim 3-5,16-18, and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over McElwrath/Fujino as applied to claims 1,2,14,15, and 28 above, and further in view of Sullivan et al. (US 6,662,365).**

1. [Claims 3,16,29]: Regarding Claims 3,16, and 29, McElwrath/Fujino does not disclose expressly wherein the element is an icon having the shape of an unlocked padlock. However, Sullivan teaches the concept of using padlock icons in Col.7: 12-26. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate an icon having the shape of an unlocked padlocked into the method and system of McElwrath/Fujino, in light of the teaching of Sullivan, in order to indicate the status of a menu selection item.

2. [Claims 4-5,17-18,30-31]: Regarding Claims 4-5,17-18, and 30-31, McElwrath/Fujino does not disclose expressly wherein the Web document includes an element that indicates that one of the plurality of training courses is unavailable and wherein the element is an icon having the shape of a locked padlock. However, Sullivan teaches such in Col.7: 12-26. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of McElwrath/Fujino, in light of the teaching of Sullivan, in order to provide an iconic indication of the status of a menu selection item.

**Claims 7,20, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over McElwrath/Fujino as applied to claims 6, 19 and 32 above, and further in view of Beavers et al. (US 2004/0002049).**

[Claims 7,20,33]: Regarding Claims 7,20, and 33, McElwrath/Fujino does not disclose expressly wherein the element is an icon having the shape of a check. However, Beavers teaches such (i.e., checkmark icon) on p.14, [0148]. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate an icon having the shape of a check into the method and system of McElwrath/Fujino, in light of the teaching of Beavers, in order to indicate what selection was made.



***Citation of Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Ziv-EI (US 6,302,698)  
-keyword mode
- Ziv-EI (US 6,898,411)  
-keywords
- Park (US 2003/0049592)  
-keywords
- Corn et al. (US 2001/0053513)  
-keywords
- Stansvik (US 2003/0027122)  
-questions, answers, keywords
- Kerwin (US 2001/0036619)  
-keywords present in answer
- Doi et al. (US 6,526,257)  
-questions, keywords

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 571-272-4448. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Chanda L. Harris*  
Chanda L. Harris  
Primary Examiner  
Art Unit 3714

# INFORMATION DISCLOSURE CITATION

PTO-1449

## Complete if Known

Application No.	Unknown
Filing Date	March 31, 2004
First Named Inventor	Dennis R. Berman
Group Art Unit	Unknown
Atty. Docket No.	TRV03-0001-1
Page Number	1 of 3

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EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
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*6/10/05*

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# INFORMATION DISCLOSURE CITATION

PTO-1449

## Complete if Known

Application No.	Unknown
Filing Date	March 31, 2004
First Named Inventor	Dennis R. Berman
Group Art Unit	Unknown
Atty. Docket No.	TRV03-0001-1
Page Number	2 of 3

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CH	6,292,792	09/18/01	Baffes et al.	<del>706</del>	<del>45</del>	03/26/99
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# INFORMATION DISCLOSURE CITATION

PTO-1449

## Complete if Known

Application No.	Unknown
Filing Date	March 31, 2004
First Named Inventor	Dennis R. Berman
Group Art Unit	Unknown
Atty. Docket No.	TRV03-0001-1
Page Number	3 of 3

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<i>CH</i>	EP 1008975 A2	06/14/00	EP	G09B	7/04	<input type="checkbox"/>	<input checked="" type="checkbox"/>
EXAMINER	<i>Chanda, L. Narva</i>		DATE CONSIDERED	<i>6/10/05</i>			

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# INFORMATION DISCLOSURE CITATION

PTO-1449

## Complete if Known

Application No.	10/815,341
Filing Date	3/31/2004
First Named Inventor	Dennis R. Berman
Group Art Unit	3714
Atty. Docket No.	TRV03-0001-1

## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE

## FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
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<input checked="" type="checkbox"/>	Spaced repetition - Wikipedia. Retrieved from the Internet on April 26, 2005: <URL: <a href="http://en.wikipedia.org/wiki/Spaced_repetition">http://en.wikipedia.org/wiki/Spaced_repetition</a> >.
<input checked="" type="checkbox"/>	FullRecall - Retrieved from the Internet on April 26, 2005: <URL: <a href="http://www.fullrecall.com">http://www.fullrecall.com</a> >.
<input checked="" type="checkbox"/>	SuperMemory. Retrieved from the Internet on April 25, 2005: <URL: <a href="http://www.supermemo.com">http://www.supermemo.com</a> >.

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# INFORMATION DISCLOSURE CITATION

PTO-1449

## Complete if Known

Application No.	10/815,341
Filing Date	3/31/2004
First Named Inventor	Dennis R. Berman
Group Art Unit	3713
Atty. Docket No.	TRV03-0001-1

## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
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# INFORMATION DISCLOSURE CITATION

PTO-1449

## Complete if Known

Application No.	10/815,341
Filing Date	3/31/2004
First Named Inventor	Dennis R. Berman
Group Art Unit	3713
Atty. Docket No.	TRV03-0001-1

## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
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## FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
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<b>Notice of References Cited</b>	Application/Control No. 10/815,341		Applicant(s)/Patent Under Reexamination BERMAN, DENNIS R.	
	Examiner Chanda L. Harris		Art Unit 3714	Page 1 of 1

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*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
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B	US-6,662,365	12-2003	Sullivan et al.	725/25
C	US-6,755,662	06-2004	Fujino et al.	434/322
D	US-2004/0009462	01-2004	McElwrath, Linda Kay	434/350
E	US-6,526,257	02-2003	Doi et al.	434/350
F	US-2001/0036619	11-2001	Kerwin, Patrick A.	434/118
G	US-2003/0027122	02-2003	Stansvik, Bjorn	434/323
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I	US-2003/0049592	03-2003	Park, Nam-Kyo	434/322
J	US-6,898,411	05-2005	Ziv-el et al	434/350
K	US-6,302,698	10-2001	Ziv-El, Jakob	434/323
L	US-			
M	US-			

#### FOREIGN PATENT DOCUMENTS

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
N					
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P					
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#### NON-PATENT DOCUMENTS

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/055,306	02/09/2005	Dennis R. Berman	TRV03-0001-3	1500

28422 7590 05/31/2007  
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BOISE, ID 83714

EXAMINER

UTAMA, ROBERT J

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

05/31/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

11/055,306

Applicant(s)

BERMAN, DENNIS R.

Examiner

Robert J. Utama

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 40-44 and 50-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 40-44 and 50-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 12/11/2006

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 3714

### **DETAILED ACTION**

1. In response to the amendment filed on 03/13/2007, claims 1-39 and 45-49 have been canceled; claims 40-44 and 50-59 are pending.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/13/2007 has been entered.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 40-42, 51 and 57-59 have been rejected under 35 U.S.C. 102(b) as being anticipated by Boon US 6,022,221 (hereinafter Boon '221).**

4. With regards to claim 40, Boon '221 discloses a teaching/learning machine utilizing a database to provide interactive tutoring and/or memory training for at least one user (Col. 1:9-11). Boon '221 discloses a data structure that stores information relevant to the answer (keyword) in the q/a fields and another field (Col. 9:42-55). The q/a field contain both keyword (any word with significant meaning associated to the topic material) and non-keyword (anything else that is not a keyword e.g. a punctuation key in Cyrillic) materials. Boon '221 also mention another field that display answer (keyword) at it is display when the user inputs the correct answer (Col. 9:47-48). Claim 40 also carries the limitation that the invention must

Art Unit: 3714

provide training that enables a user to distinguish at least one keyword from at least one non-keyword. Boon '221 specifically discloses that the non-keyword materials are displayed in another area on that screen that would otherwise be blank (Col 9:42-46). Thus the training material of Boon '221 does distinguish at least one keyword with at least one non-keyword and also provide a reference that teaches the storing of keyword material in two different locations in database.

5. With regard to dependent claim 41, where the computer system of claim 40 stores the question, the answer and the separately stored keyword are stored in a database. This feature would have been an inherent feature of Boon '221 invention as table is a feature of a database structure.

6. With regard to dependent claim 42, where the computer system of claim 40 stores the question, the answer and the separately stored keyword are stored in separate columns in the database table. Boon '221 discloses a data structure that stores information relevant to the answer (keyword) in the q/a fields and another field (Col. 9:42-55).

7. With regard to dependent claim 51, Boon '221 discloses wherein the database stores data indicating whether a user is taking an Introductory round (i.e., EASY display mode) of training or a Retention round (i.e., reviews) of training, and wherein the program storage device includes computer-readable instructions that when executed by the computer system utilize the data indicating whether a user is taking an Introductory round of training or a Retention round of training (Col.4: 46-48 and Col.5: 18-23). Boon '221 also explains how the data taken during the Introductory (or EASY mode) is used to help train the user (Col.9:26-39).

8. With regard to dependent claim 57-59, Boon '221 invention is capable of indicating the Retention round number in which a user successfully answered a question (**Claim 57**) / a question two times (**Claim 58**)/X times (**Claim 59**) without a hint in that Retention round, and wherein the program storage device includes computer-readable instructions that when executed by the computer system provide training to at least one user utilizing the Retention

Art Unit: 3714

round number in which a user successfully answered a question/a question two times/X times (where X is an integer greater than 2) without a hint in that Retention round. Boon '221 invention is also able to utilize the data (student's ability to answer questions with or without the use of hints) to provide training to the user (Col.7:61-67 and Col.8:1-10).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claim 43 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Boon '221 and in view of Sugimoto US 6,755,661 (hereinafter Sugimoto '661).**

11. Boon '221 fails to explicitly teach of using or storing question number in the database table and of utilizing the question number to provide training. Sugimoto '661 provides a teaching of storing and using question number -along with other attributes related to a particular question- to provide training to at least one user (Sugimoto '661 Col.6:9). Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art to incorporate storing the storing of question number into Boon '221 database, in light of Sugimoto '661 teaching. One of ordinary skilled in the art would have been motivated to make this combination in order to help the student identify (along certain related attributes) which question have been answered incorrectly.

12. **Claim 44 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Boon '221 and in view of Bejar US 6,526,258 (hereinafter US '258).**

13. Boon '221 differs from the claimed invention since it does not explicitly teach the storing of question title in a database table. Bejar '258 provides an explicit teaching of a

Art Unit: 3714

testing machine that store question titles in a system database table (Col 6:37). Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art to incorporate the storing of question title into Boon '221 database, in light of Bejar '258 teaching. One of ordinary skilled in the art would have been motivated to make this combination in order to help the student identify which question topics the student need to focus their attention to.

**14. Claim 50 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Boon '221 and further in view of Rudmik US 6,551,109 (hereinafter Rudmik '109).**

15. Boon '221 fails to teach the act of storing data of the number of days a user has completed in a multi-day training program. Boon '221 also fails to teach the act of using such data to in order to provide training to the user. Rudmik '109 provides an example of a training system that keep track of the number of days the user have been using the system and using this information to present training bits to the user (Col 3:65-66 and 4:1-17). Rudmik '109 also provides a teaching of how one skilled in the art can use such data to present learning material to the user (Col. 4:15-35). Therefore it would have been obvious to one of ordinary skilled in the art to incorporate Rudmik '109 teaching into the method and system of Boon '221. One skilled in the art would have been motivated to make such combination in order to determine the instructional sequence of user in a multi-day training program as taught by Rudmik '109.

**16. Claim 52-56 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Boon '221.**

17. Boon '221 fail to teach the act of storing data indicating the number of time a user retried a plurality of question in an Introductory (**Claim 52**) or Retention (**Claim 53**) round in order to provide training to at least one user, the act of storing data indicating the number of time a user retried a plurality of question in an Introductory (**Claim 54**) or Retention (**Claim**

Art Unit: 3714

55) round in order to determine the difficulties level of the next question, and the act of storing the data indicating the number of times a user have utilized a hint to answer a question (**Claim 56**) in order to provide training to at least one user. However, the concept of indicating the number of times that a user has retried a plurality of questions and indicating the number of times that user utilized a hint is old and well known in the art. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Boon '221 in order to facilitate determining which instructional material to present next.

#### ***Response to Arguments***

18. The applicant's amendment on the specification filed on 03/13/2007, is effective to overcome the objection on the specification raised in the examiner's last office action.

19. The applicant alleges that the prior art Boon 6,022,221 fails to teach the limitation of a "database also separately storing at least one keyword is stored in two locations, the column not storing at least one non-keyword". The applicant's argument is contingent on the assumption that the answer of Boon '221 is identical to the answer in the applicant's disclosure. The examiner respectfully disagree. The examiner interpret claim 40 as follow: firstly the database will contain questions and the appropriate answers. Secondly, the database will contain at least two separate columns, one column that contains both keyword and nonkeyword; and another separate column that contains just the keyword. The examiner rejects the applicant's claim under Boon '221 since the prior art also possess similar database structure. The examiner interprets the limitation of "..., the answer including at least one keyword and at least one non-keyword,... " as a label on the database structure of a column that contain at least one keyword and at least one non-keyword, hence it does not carry patentable weight. On the other hand, Boon '221 discloses a database which has two columns, one column called q/a columns that contain both keywords and non-keywords and a second



Art Unit: 3714

column that contain keywords. The applicant's alleges that Boon '221 requires that the storage of the "answer" requires the storage of both keywords and non-keywords. However, Boon '221 disclosure does not provide that requirement. Secondly, while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function (see MPEP 2114). Hence, the examiner contends that the arguments filed by the applicant is ineffective to overcome the teaching of Boon '221.

### **Conclusion**

20. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

Art Unit: 3714

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Utama whose telephone number is (571) 272-1676. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezutto can be reached on (571)272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RU  
RU

May 24<sup>th</sup>, 2007

*Kathleen Mosser*  
**Kathleen Mosser**  
**Primary Examiner**  
**Art Unit 3714**



# **INFORMATION DISCLOSURE CITATION**

**PTO-1449**

## **Complete If Known**

<b>Application No.</b>	11/055,306
<b>Filing Date</b>	2/9/2005
<b>First Named Inventor</b>	Dennis R. Berman
<b>Group Art Unit</b>	3714
<b>Atty. Docket No.</b>	TRV03-0001-3

## **U.S. PATENT DOCUMENTS**

EXAMINER'S INITIALS	DOCUMENT NO.	DATE MM-YYYY	NAME	CLASSIFICATION
/RU/	2003/0077559	04-2003	Braunberger et al.	434/322

## **FOREIGN PATENT DOCUMENTS**

EXAMINER'S INITIALS	DOCUMENT NO.	DATE MM-YYYY	COUNTRY	CLASSIFICATION	Translation	
					Yes	No
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>

## **OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)**


<b>EXAMINER</b>	/Robert J. Utama/	<b>DATE CONSIDERED</b>	05/25/2007
-----------------	-------------------	------------------------	------------

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/055,306	02/09/2005	Dennis R. Berman	TRV03-0001-3	1500
28422	7590	03/06/2007	EXAMINER	
HOYT A. FLEMING III			UTAMA, ROBERT J	
P.O. BOX 140678			ART UNIT	
BOISE, ID 83714			PAPER NUMBER	
			3714	
			MAIL DATE	
			DELIVERY MODE	
			03/06/2007	
			PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

11/055,306

Applicant(s)

BERMAN, DENNIS R.

Examiner

Robert J. Utama

Art Unit

3714

*--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

THE REPLY FILED 05 February 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_  
 Claim(s) objected to: \_\_\_\_\_  
 Claim(s) rejected: \_\_\_\_\_  
 Claim(s) withdrawn from consideration: \_\_\_\_\_

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
 13. ☐ Other: \_\_\_\_\_

*Kathleen Mosser*  
**KATHLEEN MOSSER**  
 PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: The applicant alleges that the prior art Boon 6,022,221 fails to teach the limitation of a "database also separately storing at least one keyword is stored in two locations, the column not storing at least one non-keyword". The applicant's argument is contingent on the assumption that the answer of Boon '221 is identical to the answer in the applicant's disclosure. The examiner respectfully disagree. The examiner interpret claim 40 as follow: firstly the database will contain questions and the appropriate answers. Secondly, the database will contain at least two separate columns, one column that contains both keyword and nonkeyword; and another separate column that contains just the keyword. The examiner rejects the applicant's claim under Boon '221 since the prior art also possess similar database structure. The examiner interpret the sentence "the answer ..." as a label of the column in the database which carry no patentable weight.



# UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/055,306	02/09/2005	Dennis R. Berman	TRV03-0001-3	1500

28422 7590 12/08/2006

HOYT A. FLEMING III  
P.O. BOX 140678  
BOISE, ID 83714

EXAMINER

UTAMA, ROBERT J

ART UNIT	PAPER NUMBER
----------	--------------

3714

DATE MAILED: 12/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

11/055,306

Applicant(s)

BERMAN, DENNIS R.

Examiner

Robert J. Utama

Art Unit

3714

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  
Period for Reply

A SHORTERED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 40-44 and 50-59 is/are pending in the application.
- 4a) Of the above claim(s) 1-39 and 45-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 40-44 and 50-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09/02/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 07/22/2005, 07/24/2008.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.



***Detailed Action***

1. In response to the amendment filed on 11/14/2005, claims 1-39 and 45-49 have been canceled; claims 40-44 and 50-59 are pending.

***Election/Restrictions***

2. Applicant's election without traverse of Group I for claims 40-44 and 50-59 in the reply filed on 06/28/2005 is acknowledged.

***Specification***

3. The use of the trademark JAVASCRIPT, STARBUCKS, IBM, INTERNATIONAL BUSINESS MACHINE, MICROSOFT WINDOWS, DIRECTX, OPENGL, MICROSOFT INTERNET EXPLORER, HEWLETT PACKARD and APPLE COMPUTER has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 40-42, 51 and 57-59 have been rejected under 35 U.S.C.**

**102(b) as being anticipated by Boon US 6,022,221 (hereinafter Boon '221).**

5. With regards to claim 40, Boon '221 discloses a teaching/learning machine utilizing a database to provide interactive tutoring and/or memory training for at least one user (Col. 1:9-11). Boon '221 discloses a data structure that stores information relevant to the answer (keyword) in the q/a fields and another field (Col. 9:42-55). The q/a field contain both keyword (any word with significant meaning associated to the topic material) and non-keyword (anything else that is not a keyword e.g. a punctuation key in Cyrillic) materials. Boon '221 also mention another field that display answer (keyword) at it is display when the user inputs the correct answer (Col. 9:47-48). Claim 40 also carries the limitation that the invention must provide training that enables a user to distinguish at least one keyword from at least one non-keyword. Boon

'221 specifically discloses that the non-keyword materials are displayed in another area on that screen that would otherwise be blank (Col 9:42-46). Thus the training material of Boon '221 does distinguish at least one keyword with at least one non-keyword and also provide a reference that teaches the storing of keyword material in two different locations in database.

6. With regard to dependent claim 41, where the computer system of claim 40 stores the question, the answer and the separately stored keyword are stored in a database. This feature would have been an inherent feature of Boon '221 invention as table is a feature of a database structure.

7. With regard to dependent claim 42, where the computer system of claim 40 stores the question, the answer and the separately stored keyword are stored in separate columns in the database table. Boon '221 discloses a data structure that stores information relevant to the answer (keyword) in the q/a fields and another field (Col. 9:42-55).

8. With regard to dependent claim 51, Boon '221 discloses wherein the database stores data indicating whether a user is taking an Introductory round (i.e., EASY display mode) of training or a Retention round (i.e., reviews) of training, and wherein the program storage device includes computer-readable instructions that when executed by the computer system utilize the data indicating whether a user is taking an Introductory round of training or a Retention round of training (Col.4:

46-48 and Col.5: 18-23). Boon '221 also explains how the data taken during the Introductory (or EASY mode) is used to help train the user (Col.9:26-39).

9. With regard to dependent claim 57-59, Boon '221 invention is capable of indicating the Retention round number in which a user successfully answered a question (**Claim 57**) / a question two times (**Claim 58**)/X times (**Claim 59**) without a hint in that Retention round, and wherein the program storage device includes computer-readable instructions that when executed by the computer system provide training to at least one user utilizing the Retention round number in which a user successfully answered a question/a question two times/X times (where X is an integer greater than 2) without a hint in that Retention round. Boon '221 invention is also able to utilize the data (student's ability to answer questions with or without the use of hints) to provide training to the user (Col.7:61-67 and Col.8:1-10).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**11. Claim 43 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Boon '221 and in view of Sugimoto US 6,755,661 (hereinafter Sugimoto '661).**

12. Boon '221 fails to explicitly teach of using or storing question number in the database table and of utilizing the question number to provide training. Sugimoto '661 provides a teaching of storing and using question number -along with other attributes related to a particular question- to provide training to at least one user (Sugimoto '661 Col.6:9). Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art to incorporate storing the storing of question number into Boon '221 database, in light of Sugimoto '661 teaching. One of ordinary skilled in the art would have been motivated to make this combination in order to help the student identify (along certain related attributes) which question have been answered incorrectly.

**13. Claim 44 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Boon '221 and in view of Bejar US 6,526,258 (hereinafter US '258).**

14. Boon '221 differs from the claimed invention since it does not explicitly teach the storing of question title in a database table. Bejar '258 provides an explicit teaching of a testing machine that store question titles in a system database table (Col 6:37). Therefore, it would have been obvious at the time of the invention to one of ordinary skill in

the art to incorporate the storing of question title into Boon '221 database, in light of Bejar '258 teaching. One of ordinary skilled in the art would have been motivated to make this combination in order to help the student identify which question topics the student need to focus their attention to.

**15. Claim 50 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Boon '221 and further in view of Rudmik US 6,551,109 (hereinafter Rudmik '109).**

16. Boon '221 fails to teach the act of storing data of the number of days a user has completed in a multi-day training program. Boon '221 also fails to teach the act of using such data to in order to provide training to the user. Rudmik '109 provides an example of a training system that keep track of the number of days the user have been using the system and using this information to present training bits to the user (Col 3:65-66 and 4:1-17). Rudmik '109 also provides a teaching of how one skilled in the art can use such data to present learning material to the user (Col. 4:15-35). Therefore it would have been obvious to one of ordinary skilled in the art to incorporate Rudmik '109 teaching into the method and system of Boon '221. One skilled in the art would have been motivated to make such combination in order to determine the instructional sequence of user in a multi-day training program as taught by Rudmik '109.

**17. Claim 52-56 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Boon '221.**

18. Boon '221 fail to teach the act of storing data indicating the number of time a user retried a plurality of question in an Introductory (**Claim 52**) or Retention (**Claim 53**) round in order to provide training to at least one user, the act of storing data indicating the number of time a user retried a plurality of question in an Introductory (**Claim 54**) or Retention (**Claim 55**) round in order to determine the difficulties level of the next question, and the act of storing the data indicating the number of times a user have utilized a hint to answer a question (**Claim 56**) in order to provide training to at least one user. However, the concept of indicating the number of times that a user has retried a plurality of questions and indicating the number of times that user utilized a hint is old and well known in the art. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Boon '221 in order to facilitate determining which instructional material to present next.

#### ***Response to Arguments***

19. Applicant's response to the examiner's rejection under 35 U.S.C 112, first paragraph, is acceptable. The applicant has successfully provided the teaching required to describe the subject matter pertaining

to *"the database separately storing the at least one keyword so that the keyword is stored in the database in two locations"*.

20. Applicant's arguments filed 11/14/2005 have been fully considered but they are not persuasive. The applicant argues that the previously presented prior arts fail to show the following features: the ability to store keywords separately in the database (one field that contain both keyword and non-keyword and another field that contain just keyword), the ability to distinguish at least one keyword to at least one non-keyword and the ability to provide training to at least one user.

21. The applicant noted that Boon '221 does not anticipate claim 40 since it does not *"store keywords in a database column that does not include non-keywords."* However, Boon '221 explicitly recites that the database used in Boon '221 system contains at least two distinct fields. One field, the question/answer pair field, which contain both the keyword (answer) and non-keyword material. Another field that contain the answer (keyword) that will be displayed to the user (Col 9:45-55).

22. The applicant argues, *"(That) it would be difficult (if not impossible) for Boon to provide training that distinguishes keywords from non-keywords."* However, Boon '221 system is fully capable of distinguishing useful (non-keyword) information from keyword material by displaying the non-keyword materials on another part of the screen that would



otherwise be a blank screen area (Col 9:44-45). Hence, Boon '221 anticipates this type of training.

23. Lastly, the applicant argues that prior art need to show explicit recitation of *"a computer system that provides at least one user ..., the provided training distinguishing the at least one keyword from the at least one non-keyword."* Boon '221 is a teaching machine that provides training for at least one user (Boon '221 Abstract and Col. 1:8-11) and as explained earlier Boon '221 training system is able to provide distinguishing feature to differentiate between at least one non-keyword and at least one keyword.

### **Conclusion**

24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Utama whose telephone number is (571) 272-1676. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571)272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RU  
Robert Utama/November 6<sup>th</sup> 2006

*Kathleen Mosser*  
KATHLEEN MOSSE  
PRIMARY EXAMINER



# INFORMATION DISCLOSURE CITATION

PTO-1449

## Complete if Known

Application No.	11/055,306
Filing Date	2/9/2005
First Named Inventor	Dennis R. Berman
Group Art Unit	3714
Atty. Docket No.	TRV03-0001-3

## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASSIFICATION
RU	5,141,439	08-1992	Cousins, Edward J.	434/178
RU	6,186,795	02-2001	Wilson, Henry Allen	434/236

## FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						Yes	No
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)


EXAMINER: 

DATE CONSIDERED

08 11/100/2006

EXAMINER: Initial reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



# INFORMATION DISCLOSURE CITATION

PTO-1449

## Complete if Known

Application No.	11/055,306
Filing Date	2/9/2005
First Named Inventor	Dennis R. Berman
Group Art Unit	3714
Atty. Docket No.	TRV03-0001-3

## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS
RU	2004/0002049	01-2004	Beavers et al. ✓	434	350
RU	6,662,365	12-2003	Sullivan et al. ✓	725	25
RU	6,755,662	06-2004	Fujino et al. ✓	434	322
RU	2004/0009462	01-2004	McElwrath, Linda Kay ✓	434	350
RU	6,526,257	02-2003	Dol et al. ✓	434	350
RU	2001/0036619	11-2001	Kerwin, Patrick A. ✓	434	118
RU	2003/0027122	02-2003	Stansvik, Bjorn ✓	434	323
RU	2001/0053513	12-2001	Corn et al. ✓	434	350
RU	2003/0049592	03-2003	Park, Nam-Kyo ✓	434	322
RU	6,898,411	05-2005	Ziv-Ei et al. ✓	434	350

## FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						Yes	No
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

RU	Spaced repetition. [online], [retrieved on April 26, 2005]. Retrieved from the Internet <URL: <a href="http://en.wikipedia.org/wiki/Spaced_repetition">http://en.wikipedia.org/wiki/Spaced_repetition</a> >
RU	Calinski. FullRecall. [online] [retrieved on April 25, 2005]. Retrieved from the Internet <URL: <a href="http://www.fullrecall.com">http://www.fullrecall.com</a> >
RU	Super Memory. [online], [retrieved on April 25, 2005]. Retrieved from the Internet <URL: <a href="http://www.supermemo.com">http://www.supermemo.com</a> >
EXAMINER	DATE CONSIDERED 09/12/2006

EXAMINER: Initial reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

**Notice of References Cited**

Application/Control No.

11/055,306

Applicant(s)/Patent Under  
Reexamination  
BERMAN, DENNIS R.

Examiner

Robert J. Utama

Art Unit

3714

Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,022,221	02-2000	Boon, John F.	434/156
*	B	US-6,755,661	06-2004	Sugimoto, Koichi	434/322
*	C	US-6,526,258	02-2003	Bejar et al.	434/350
*	D	US-6,551,109	04-2003	Rudmik, Tom R.	434/322
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/055,306	02/09/2005	Dennis R. Berman	TRV03-0001-3	1500
28422	7590	08/11/2005	EXAMINER	
HOYT A. FLEMING III			HARRIS, CHANDA L	
P.O. BOX 140678				
BOISE, ID 83714			ART UNIT	PAPER NUMBER

3714

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

11/055,306

Examiner

Chanda L. Harris

Applicant(s)

BERMAN, DENNIS R.

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 40-44 and 50-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 40-44 and 50-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/9/05, 4/26/05 7/22/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of Claims***

In response to the Preliminary Amendment filed 2/9/05, Claims 40-59 were pending.  
Claims 1-39 are cancelled.

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 40-44 and 50-59, drawn to a computer system for providing training, classified in class 434, subclass 362.
- II. Claims 45-49, drawn to a computer system for providing training, classified in class 434, subclass 362.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as a computer system that does not require an answer to the question including a code that identifies a keyword. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.



During a telephone conversation with Hoyt Fleming on 6/28/05 a provisional election was made without traverse to prosecute the invention of Group I, claims 40-44 and 50-59. Affirmation of this election must be made by applicant in replying to this Office action. Claims 45-49 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Specification***

The use of the trademarks JAVASCRIPT, STARBUCKS, IBM, INTERNATIONAL BUSINESS MACHINES, MICROSOFT WINDOWS, DIRECTX, OPENGL, MICROSOFT INTERNET EXPLORER, HEWLETT PACKARD, APPLE COMPUTER have been noted in this application. Applicant is required to review the specification for any other instances of trademarks and make the appropriate corrections. They should be capitalized wherever they appear and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 40-44 and 50-59 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not describe the subject matter pertaining to the database separately storing the at least one keyword so that the keyword is stored in the database in two locations.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 40-42 and 51, 57-59 are rejected under 35 U.S.C. 102(b) as being anticipated by Boon (US 6,022,221).**

1. [Claim 40]: Regarding Claim 40, Boon discloses a program storage device including a database that stores a question and an answer to the question (i.e., q/a pairs). See Col.9: 42-47. Boon discloses the answer including at least one keyword (i.e., the answer as it is displayed when the user inputs the correct answer), the database also separately storing the at least one keyword (i.e., in another field) so that the keyword is stored in the database in two locations (i.e., q/a field and another field), the program storage device further including computer readable instructions that when

executed by the computer system utilize the question, the answer to the question, and the separately stored keyword. See Col.9: 42-55. To provide training to at least one user is language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure, and thereby, does not limit the scope of a claim or claim limitation.

2. [Claim 41]: Regarding Claim 41, wherein the question, the answer to the question, and the separately stored keyword are stored in a database table would have been an inherent feature of Boon's invention as tables what comprises a database structure.

3. [Claim 42]: Regarding Claim 42, Boon discloses wherein the question, the answer to the question, and the separately stored keyword are stored in separate columns (i.e., fields) of a database table. See Col.9: 41-48.

4. [Claim 51]: Regarding Claim 51, Boon discloses wherein the database stores data indicating whether a user is taking an Introductory round (i.e., EASY display mode) of training or a Retention round (i.e., reviews) of training, and wherein the program storage device includes computer-readable instructions that when executed by the computer system utilize the data indicating whether a user is taking an Introductory round of training or a Retention round of training. See Col.4: 46-48 and Col.5: 18-23. To provide training to at least one user is language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure, and thereby, does not limit the scope of a claim or claim limitation.

Art Unit: 3714

5. [Claims 57-59]: Regarding Claims 57-59, Boon's invention is capable of indicating the Retention round number in which a user successfully answered a question/a question two times/X times without a hint in that Retention round, and wherein the program storage device includes computer-readable instructions that when executed by the computer system utilize the Retention round number in which a user successfully answered a question/a question two times/X times (where X is an integer greater than 2) without a hint in that Retention round. To provide training to at least one user is language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure, and thereby, does not limit the scope of a claim or claim limitation.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boon in view of Sugimoto (US 6,755,661).**

6. [Claim 43]: Regarding Claim 43, Boon does not disclose expressly wherein the database table also stores a question number, and wherein the program storage device includes computer readable instructions that when executed by the computer system utilize the question number. However, Sugimoto teaches such in Col.6: 9. Therefore,

at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate storing a question number into the method and system of Boon, in light of the teaching of Sugimoto in order to store questions for tests. To provide training to at least one user is language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure, and thereby, does not limit the scope of a claim or claim limitation.

**Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boon in view of Bejar et al. (US 6,526,258).**

7. [Claim 44]: Regarding Claim 44, Boon does not disclose expressly wherein the database table also stores a question title (i.e., question name), and wherein the program storage device includes computer readable instructions that when executed by the computer system utilize the question title. However, Bejar teaches such in Col.6: 37. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate storing a question title into the method and system of Boon, in light of the teaching of Bejar, in order to relationally store information related to a response in a database. To provide training to at least one user is language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure, and thereby, does not limit the scope of a claim or claim limitation.

**Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boon in view of Rudnik (US 6,551,109).**

8. [Claim 50]: Regarding Claim 50, Boon does not disclose expressly wherein the database stores data indicating the number of days of multi-day training that the user has completed, and wherein the program storage device includes computer-readable instructions that when executed by the computer system utilize the data indicating the number of days of a multi-day training that the user has completed. However, Rudnik teaches such (i.e., Training completed in One Day) in Col.3: 3336-52. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into the method and system of Boon, in light of the teaching of Rudnik, in order to determine the instructional sequence for a user for the next day. To provide training to at least one user is language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure, and thereby, does not limit the scope of a claim or claim limitation.

**Claims 52-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boon.**

[Claims 52-56]: Regarding Claims 52-56, Boon does not disclose expressly wherein the database stores data indicating the number of times that a user retried a plurality of questions in an Introductory/Retention round of training, and wherein the program storage device includes computer readable instructions that when executed by the computer system utilize the data indicating the number of times that a user retried the

Art Unit: 3714

plurality of questions in an Introductory/Retention round of training and wherein the database stores data indicating the number of times that a user utilized a hint to answer a question, and wherein the program storage device includes computer-readable instructions that when executed by a computer system utilize the data indicating the number of times that a user utilized a hint to answer a question. However, the concept of indicating the number of times that a user has retried a plurality of questions and indicating the number of times that a user utilized a hint is old and well known in the art. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Boon in order to facilitate determining which instructional material to present next, or provide training to at least one user/ to determine the relative difficulty level of the plurality of questions is language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure, and thereby, does not limit the scope of a claim or claim limitation.

#### ***Citation of Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Pellegrino et al. (US 6,149,441)

-keywords

- Sonnenfeld (US 6,112,049)

-test authoring

- DeNicola et al. (US 6,288,753)  
-question, answer, keyword, database
- Cook et al. (US 5,727,950)  
-number of attempts, hints

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 571-272-4448. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Chanda L. Harris*  
Chanda L. Harris  
Primary Examiner  
Art Unit 3714



# INFORMATION DISCLOSURE CITATION

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## Complete if Known

Application No.	Unknown
Filing Date	February 9, 2005
First Named Inventor	Dennis R. Berman
Group Art Unit	Unknown
Atty. Docket No.	TRV03-0001-3
Page Number	1 of 4

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Page Number	2 of 4

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Page Number	3 of 4

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First Named Inventor	Dennis R. Berman
Group Art Unit	Unknown
Atty. Docket No.	TRV03-0001-3
Page Number	4 of 4

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EXAMINER	Chanda L. Harris	DATE CONSIDERED	8/8/05
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# INFORMATION DISCLOSURE CITATION

PTO-1449

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Application No.	11/055,306
Filing Date	2/9/2005
First Named Inventor	Dennis R. Berman
Group Art Unit	3714
Atty. Docket No.	TRV03-0001-3

## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE

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EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
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Filing Date	2/9/2005
First Named Inventor	Dennis R. Berman
Group Art Unit	3714
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EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
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<b>Notice of References Cited</b>	Application/Control No. 11/055,306		Applicant(s)/Patent Under Reexamination BERMAN, DENNIS R.	
	Examiner Chanda L. Harris		Art Unit 3714	Page 1 of 1

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	C	US-6,022,221	02-2000	Boon, John F.	434/156
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	E	US-6,288,753	09-2001	DeNicola et al.	348/586
	F	US-6,769,917	08-2004	Fujino et al.	434/322
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	H	US-6,755,661	06-2004	Sugimoto, Koichi	434/322
	I	US-6,149,441	11-2000	Pellegrino et al.	434/350
	J	US-			
	K	US-			
	L	US-			
	M	US-			

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/055,186	02/09/2005	Dennis R. Berman	TRV03-0001-2	2208
25422 7590 06/07/2005 HOYT A. FLEMING III P.O. BOX 140678 BOISE, ID 83714			EXAMINER HARRIS, CHANDA L.	
			ART UNIT	PAPER NUMBER

3714

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



# Office Action Summary

Application No.

11/055,186

Examiner

Chanda L. Harris

Applicant(s)

BERMAN, DENNIS R.

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 40-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 40-59 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-113)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 40-44 and 50-59, drawn to a computer system for providing training, classified in class 434, subclass 362.
- II. Claims 45-49, drawn to a computer system for providing training, classified in class 434, subclass 362.

The inventions are distinct, each from the other because of the following reasons:


Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as a computer system that does not require an answer to the question including a code that identifies a keyword. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 571-272-4448. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Chanda L. Harris  
Primary Examiner  
Art Unit 3714



## UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/055,186	02/09/2005	Dennis R. Berman	TRV03-0001-2	2208
29422 7590 07/07/2005 HOYT A. FLEMING III P.O. BOX 140678 BOISE, ID 83714			EXAMINER HARRIS, CHANDAL	
			ART UNIT 3714	PAPER NUMBER

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Interview Summary

Application No.

11/055,186

Applicant(s)

BERMAN, DENNIS R

Examiner

Chanda L. Harris

Art Unit

3714

All participants (applicant, applicant's representative, PTO personnel):

(1) Chanda L. Harris.

(3) \_\_\_\_\_

(2) Hoyi Fleming.

(4) \_\_\_\_\_

Date of Interview: 28 June 2005.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: \_\_\_\_\_

Claim(s) discussed: N/A.Identification of prior art discussed: N/A.Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Attorney received a restriction requirement for an incorrect case. The restriction requirement was intended to be sent for 11/055,306. Attorney elected over the phone regarding that case in lieu of Examiner mailing out a restriction requirement. Examiner will send out a proper office action with regard to 11/055,186.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Chanda L. Harris  
Examiner's signature, if required



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/055,306	02/09/2005	Dennis R. Berman	TRV03-0001-3	1500

28422 7590 05/31/2007  
HOYT A. FLEMING III  
P.O. BOX 140678  
BOISE, ID 83714

EXAMINER

UTAMA, ROBERT J

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

05/31/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

11/055,306

Applicant(s)

BERMAN, DENNIS R.

Examiner

Robert J. Utama

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 40-44 and 50-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 40-44 and 50-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/11/2006

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. In response to the amendment filed on 03/13/2007, claims 1-39 and 45-49 have been canceled; claims 40-44 and 50-59 are pending.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/13/2007 has been entered.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 40-42, 51 and 57-59 have been rejected under 35 U.S.C. 102(b) as being anticipated by Boon US 6,022,221 (hereinafter Boon '221).**

4. With regards to claim 40, Boon '221 discloses a teaching/learning machine utilizing a database to provide interactive tutoring and/or memory training for at least one user (Col. 1:9-11). Boon '221 discloses a data structure that stores information relevant to the answer (keyword) in the q/a fields and another field (Col. 9:42-55). The q/a field contain both keyword (any word with significant meaning associated to the topic material) and non-keyword (anything else that is not a keyword e.g. a punctuation key in Cyrillic) materials. Boon '221 also mention another field that display answer (keyword) at it is display when the user inputs the correct answer (Col. 9:47-48). Claim 40 also carries the limitation that the invention must



Art Unit: 3714

provide training that enables a user to distinguish at least one keyword from at least one non-keyword. Boon '221 specifically discloses that the non-keyword materials are displayed in another area on that screen that would otherwise be blank (Col 9:42-46). Thus the training material of Boon '221 does distinguish at least one keyword with at least one non-keyword and also provide a reference that teaches the storing of keyword material in two different locations in database.

5. With regard to dependent claim 41, where the computer system of claim 40 stores the question, the answer and the separately stored keyword are stored in a database. This feature would have been an inherent feature of Boon '221 invention as table is a feature of a database structure.

6. With regard to dependent claim 42, where the computer system of claim 40 stores the question, the answer and the separately stored keyword are stored in separate columns in the database table. Boon '221 discloses a data structure that stores information relevant to the answer (keyword) in the q/a fields and another field (Col. 9:42-55).

7. With regard to dependent claim 51, Boon '221 discloses wherein the database stores data indicating whether a user is taking an Introductory round (i.e., EASY display mode) of training or a Retention round (i.e., reviews) of training, and wherein the program storage device includes computer-readable instructions that when executed by the computer system utilize the data indicating whether a user is taking an Introductory round of training or a Retention round of training (Col.4: 46-48 and Col.5: 18-23). Boon '221 also explains how the data taken during the Introductory (or EASY mode) is used to help train the user (Col.9:26-39).

8. With regard to dependent claim 57-59, Boon '221 invention is capable of indicating the Retention round number in which a user successfully answered a question (**Claim 57**) / a question two times (**Claim 58**)/X times (**Claim 59**) without a hint in that Retention round, and wherein the program storage device includes computer-readable instructions that when executed by the computer system provide training to at least one user utilizing the Retention

Art Unit: 3714

round number in which a user successfully answered a question/a question two times/X times (where X is an integer greater than 2) without a hint in that Retention round. Boon '221 invention is also able to utilize the data (student's ability to answer questions with or without the use of hints) to provide training to the user (Col.7:61-67 and Col.8:1-10).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claim 43 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Boon '221 and in view of Sugimoto US 6,755,661 (hereinafter Sugimoto '661).**

11. Boon '221 fails to explicitly teach of using or storing question number in the database table and of utilizing the question number to provide training. Sugimoto '661 provides a teaching of storing and using question number -along with other attributes related to a particular question- to provide training to at least one user (Sugimoto '661 Col.6:9). Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art to incorporate storing the storing of question number into Boon '221 database, in light of Sugimoto '661 teaching. One of ordinary skilled in the art would have been motivated to make this combination in order to help the student identify (along certain related attributes) which question have been answered incorrectly.

12. **Claim 44 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Boon '221 and in view of Bejar US 6,526,258 (hereinafter US '258).**

13. Boon '221 differs from the claimed invention since it does not explicitly teach the storing of question title in a database table. Bejar '258 provides an explicit teaching of a

Art Unit: 3714

testing machine that store question titles in a system database table (Col 6:37). Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art to incorporate the storing of question title into Boon '221 database, in light of Bejar '258 teaching. One of ordinary skilled in the art would have been motivated to make this combination in order to help the student identify which question topics the student need to focus their attention to.

**14. Claim 50 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Boon '221 and further in view of Rudmik US 6,551,109 (hereinafter Rudmik '109).**

15. Boon '221 fails to teach the act of storing data of the number of days a user has completed in a multi-day training program. Boon '221 also fails to teach the act of using such data to in order to provide training to the user. Rudmik '109 provides an example of a training system that keep track of the number of days the user have been using the system and using this information to present training bits to the user (Col 3:65-66 and 4:1-17). Rudmik '109 also provides a teaching of how one skilled in the art can use such data to present learning material to the user (Col. 4:15-35). Therefore it would have been obvious to one of ordinary skilled in the art to incorporate Rudmik '109 teaching into the method and system of Boon '221. One skilled in the art would have been motivated to make such combination in order to determine the instructional sequence of user in a multi-day training program as taught by Rudmik '109.

**16. Claim 52-56 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Boon '221.**

17. Boon '221 fail to teach the act of storing data indicating the number of time a user retried a plurality of question in an Introductory (**Claim 52**) or Retention (**Claim 53**) round in order to provide training to at least one user, the act of storing data indicating the number of time a user retried a plurality of question in an Introductory (**Claim 54**) or Retention (**Claim**

Art Unit: 3714

55) round in order to determine the difficulties level of the next question, and the act of storing the data indicating the number of times a user have utilized a hint to answer a question (**Claim 56**) in order to provide training to at least one user. However, the concept of indicating the number of times that a user has retried a plurality of questions and indicating the number of times that user utilized a hint is old and well known in the art. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Boon '221 in order to facilitate determining which instructional material to present next.

#### ***Response to Arguments***

18. The applicant's amendment on the specification filed on 03/13/2007, is effective to overcome the objection on the specification raised in the examiner's last office action.

19. The applicant alleges that the prior art Boon 6,022,221 fails to teach the limitation of a "database also separately storing at least one keyword is stored in two locations, the column not storing at least one non-keyword". The applicant's argument is contingent on the assumption that the answer of Boon '221 is identical to the answer in the applicant's disclosure. The examiner respectfully disagree. The examiner interpret claim 40 as follow: firstly the database will contain questions and the appropriate answers. Secondly, the database will contain at least two separate columns, one column that contains both keyword and nonkeyword; and another separate column that contains just the keyword. The examiner rejects the applicant's claim under Boon '221 since the prior art also possess similar database structure. The examiner interprets the limitation of "..., the answer including at least one keyword and at least one non-keyword,... " as a label on the database structure of a column that contain at least one keyword and at least one non-keyword, hence it does not carry patentable weight. On the other hand, Boon '221 discloses a database which has two columns, one column called q/a columns that contain both keywords and non-keywords and a second

Art Unit: 3714

column that contain keywords. The applicant's alleges that Boon '221 requires that the storage of the "answer" requires the storage of both keywords and non-keywords. However, Boon '221 disclosure does not provide that requirement. Secondly, while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function (see MPEP 2114). Hence, the examiner contends that the arguments filed by the applicant is ineffective to overcome the teaching of Boon '221.

### **Conclusion**

20. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

Art Unit: 3714

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Utama whose telephone number is (571) 272-1676. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezutto can be reached on (571)272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RU  
RU

May 24<sup>th</sup>, 2007

*Kathleen Mosser*  
**Kathleen Mosser**  
**Primary Examiner**  
**Art Unit 3714**



# **INFORMATION DISCLOSURE CITATION**

**PTO-1449**

## **Complete If Known**

<b>Application No.</b>	11/055,306
<b>Filing Date</b>	2/9/2005
<b>First Named Inventor</b>	Dennis R. Berman
<b>Group Art Unit</b>	3714
<b>Atty. Docket No.</b>	TRV03-0001-3

## **U.S. PATENT DOCUMENTS**

EXAMINER'S INITIALS	DOCUMENT NO.	DATE MM-YYYY	NAME	CLASSIFICATION
/RU/	2003/0077559	04-2003	Braunberger et al.	434/322

## **FOREIGN PATENT DOCUMENTS**

EXAMINER'S INITIALS	DOCUMENT NO.	DATE MM-YYYY	COUNTRY	CLASSIFICATION	Translation	
					Yes	No
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>

## **OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)**


<b>EXAMINER</b>	/Robert J. Utama/	<b>DATE CONSIDERED</b>	05/25/2007
-----------------	-------------------	------------------------	------------

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



## UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/055,306	02/09/2005	Dennis R. Berman	TRV03-0001-3	1500
28422	7590	03/06/2007	EXAMINER	
HOYT A. FLEMING III			UTAMA, ROBERT J	
P.O. BOX 140678			ART UNIT	
BOISE, ID 83714			PAPER NUMBER	
			3714	
			MAIL DATE	
			DELIVERY MODE	
			03/06/2007	
			PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.



**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

11/055,306

Applicant(s)

BERMAN, DENNIS R.

Examiner

Robert J. Utama

Art Unit

3714

*--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

THE REPLY FILED 05 February 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_  
 Claim(s) objected to: \_\_\_\_\_  
 Claim(s) rejected: \_\_\_\_\_  
 Claim(s) withdrawn from consideration: \_\_\_\_\_

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
 13. ☐ Other: \_\_\_\_\_

*Kathleen Mosser*  
**KATHLEEN MOSSER**  
 PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: The applicant alleges that the prior art Boon 6,022,221 fails to teach the limitation of a "database also separately storing at least one keyword is stored in two locations, the column not storing at least one non-keyword". The applicant's argument is contingent on the assumption that the answer of Boon '221 is identical to the answer in the applicant's disclosure. The examiner respectfully disagree. The examiner interpret claim 40 as follow: firstly the database will contain questions and the appropriate answers. Secondly, the database will contain at least two separate columns, one column that contains both keyword and nonkeyword; and another separate column that contains just the keyword. The examiner rejects the applicant's claim under Boon '221 since the prior art also possess similar database structure. The examiner interpret the sentence "the answer ..." as a label of the column in the database which carry no patentable weight.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/055,306	02/09/2005	Dennis R. Berman	TRV03-0001-3	1500

28422 7590 12/08/2006

HOYT A. FLEMING III  
P.O. BOX 140678  
BOISE, ID 83714

EXAMINER

UTAMA, ROBERT J

ART UNIT	PAPER NUMBER
----------	--------------

3714

DATE MAILED: 12/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

11/055,306

Applicant(s)

BERMAN, DENNIS R.

Examiner

Robert J. Utama

Art Unit

3714

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  
Period for Reply

A SHORTERED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 40-44 and 50-59 is/are pending in the application.
- 4a) Of the above claim(s) 1-39 and 45-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 40-44 and 50-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09/02/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 07/22/2005, 07/24/2008.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

***Detailed Action***

1. In response to the amendment filed on 11/14/2005, claims 1-39 and 45-49 have been canceled; claims 40-44 and 50-59 are pending.

***Election/Restrictions***

2. Applicant's election without traverse of Group I for claims 40-44 and 50-59 in the reply filed on 06/28/2005 is acknowledged.

***Specification***

3. The use of the trademark JAVASCRIPT, STARBUCKS, IBM, INTERNATIONAL BUSINESS MACHINE, MICROSOFT WINDOWS, DIRECTX, OPENGL, MICROSOFT INTERNET EXPLORER, HEWLETT PACKARD and APPLE COMPUTER has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 40-42, 51 and 57-59 have been rejected under 35 U.S.C.**

**102(b) as being anticipated by Boon US 6,022,221 (hereinafter Boon '221).**

5. With regards to claim 40, Boon '221 discloses a teaching/learning machine utilizing a database to provide interactive tutoring and/or memory training for at least one user (Col. 1:9-11). Boon '221 discloses a data structure that stores information relevant to the answer (keyword) in the q/a fields and another field (Col. 9:42-55). The q/a field contain both keyword (any word with significant meaning associated to the topic material) and non-keyword (anything else that is not a keyword e.g. a punctuation key in Cyrillic) materials. Boon '221 also mention another field that display answer (keyword) at it is display when the user inputs the correct answer (Col. 9:47-48). Claim 40 also carries the limitation that the invention must provide training that enables a user to distinguish at least one keyword from at least one non-keyword. Boon

'221 specifically discloses that the non-keyword materials are displayed in another area on that screen that would otherwise be blank (Col 9:42-46). Thus the training material of Boon '221 does distinguish at least one keyword with at least one non-keyword and also provide a reference that teaches the storing of keyword material in two different locations in database.

6. With regard to dependent claim 41, where the computer system of claim 40 stores the question, the answer and the separately stored keyword are stored in a database. This feature would have been an inherent feature of Boon '221 invention as table is a feature of a database structure.

7. With regard to dependent claim 42, where the computer system of claim 40 stores the question, the answer and the separately stored keyword are stored in separate columns in the database table. Boon '221 discloses a data structure that stores information relevant to the answer (keyword) in the q/a fields and another field (Col. 9:42-55).

8. With regard to dependent claim 51, Boon '221 discloses wherein the database stores data indicating whether a user is taking an Introductory round (i.e., EASY display mode) of training or a Retention round (i.e., reviews) of training, and wherein the program storage device includes computer-readable instructions that when executed by the computer system utilize the data indicating whether a user is taking an Introductory round of training or a Retention round of training (Col.4:

46-48 and Col.5: 18-23). Boon '221 also explains how the data taken during the Introductory (or EASY mode) is used to help train the user (Col.9:26-39).

9. With regard to dependent claim 57-59, Boon '221 invention is capable of indicating the Retention round number in which a user successfully answered a question (**Claim 57**) / a question two times (**Claim 58**)/X times (**Claim 59**) without a hint in that Retention round, and wherein the program storage device includes computer-readable instructions that when executed by the computer system provide training to at least one user utilizing the Retention round number in which a user successfully answered a question/a question two times/X times (where X is an integer greater than 2) without a hint in that Retention round. Boon '221 invention is also able to utilize the data (student's ability to answer questions with or without the use of hints) to provide training to the user (Col.7:61-67 and Col.8:1-10).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



**11. Claim 43 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Boon '221 and in view of Sugimoto US 6,755,661 (hereinafter Sugimoto '661).**

12. Boon '221 fails to explicitly teach of using or storing question number in the database table and of utilizing the question number to provide training. Sugimoto '661 provides a teaching of storing and using question number -along with other attributes related to a particular question- to provide training to at least one user (Sugimoto '661 Col.6:9). Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art to incorporate storing the storing of question number into Boon '221 database, in light of Sugimoto '661 teaching. One of ordinary skilled in the art would have been motivated to make this combination in order to help the student identify (along certain related attributes) which question have been answered incorrectly.

**13. Claim 44 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Boon '221 and in view of Bejar US 6,526,258 (hereinafter US '258).**

14. Boon '221 differs from the claimed invention since it does not explicitly teach the storing of question title in a database table. Bejar '258 provides an explicit teaching of a testing machine that store question titles in a system database table (Col 6:37). Therefore, it would have been obvious at the time of the invention to one of ordinary skill in

the art to incorporate the storing of question title into Boon '221 database, in light of Bejar '258 teaching. One of ordinary skilled in the art would have been motivated to make this combination in order to help the student identify which question topics the student need to focus their attention to.

**15. Claim 50 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Boon '221 and further in view of Rudmik US 6,551,109 (hereinafter Rudmik '109).**

16. Boon '221 fails to teach the act of storing data of the number of days a user has completed in a multi-day training program. Boon '221 also fails to teach the act of using such data to in order to provide training to the user. Rudmik '109 provides an example of a training system that keep track of the number of days the user have been using the system and using this information to present training bits to the user (Col 3:65-66 and 4:1-17). Rudmik '109 also provides a teaching of how one skilled in the art can use such data to present learning material to the user (Col. 4:15-35). Therefore it would have been obvious to one of ordinary skilled in the art to incorporate Rudmik '109 teaching into the method and system of Boon '221. One skilled in the art would have been motivated to make such combination in order to determine the instructional sequence of user in a multi-day training program as taught by Rudmik '109.

**17. Claim 52-56 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Boon '221.**

18. Boon '221 fail to teach the act of storing data indicating the number of time a user retried a plurality of question in an Introductory (**Claim 52**) or Retention (**Claim 53**) round in order to provide training to at least one user, the act of storing data indicating the number of time a user retried a plurality of question in an Introductory (**Claim 54**) or Retention (**Claim 55**) round in order to determine the difficulties level of the next question, and the act of storing the data indicating the number of times a user have utilized a hint to answer a question (**Claim 56**) in order to provide training to at least one user. However, the concept of indicating the number of times that a user has retried a plurality of questions and indicating the number of times that user utilized a hint is old and well known in the art. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Boon '221 in order to facilitate determining which instructional material to present next.

#### ***Response to Arguments***

19. Applicant's response to the examiner's rejection under 35 U.S.C 112, first paragraph, is acceptable. The applicant has successfully provided the teaching required to describe the subject matter pertaining

to *"the database separately storing the at least one keyword so that the keyword is stored in the database in two locations"*.

20. Applicant's arguments filed 11/14/2005 have been fully considered but they are not persuasive. The applicant argues that the previously presented prior arts fail to show the following features: the ability to store keywords separately in the database (one field that contain both keyword and non-keyword and another field that contain just keyword), the ability to distinguish at least one keyword to at least one non-keyword and the ability to provide training to at least one user.

21. The applicant noted that Boon '221 does not anticipate claim 40 since it does not *"store keywords in a database column that does not include non-keywords."* However, Boon '221 explicitly recites that the database used in Boon '221 system contains at least two distinct fields. One field, the question/answer pair field, which contain both the keyword (answer) and non-keyword material. Another field that contain the answer (keyword) that will be displayed to the user (Col 9:45-55).

22. The applicant argues, *"(That) it would be difficult (if not impossible) for Boon to provide training that distinguishes keywords from non-keywords."* However, Boon '221 system is fully capable of distinguishing useful (non-keyword) information from keyword material by displaying the non-keyword materials on another part of the screen that would

otherwise be a blank screen area (Col 9:44-45). Hence, Boon '221 anticipates this type of training.

23. Lastly, the applicant argues that prior art need to show explicit recitation of *"a computer system that provides at least one user ..., the provided training distinguishing the at least one keyword from the at least one non-keyword."* Boon '221 is a teaching machine that provides training for at least one user (Boon '221 Abstract and Col. 1:8-11) and as explained earlier Boon '221 training system is able to provide distinguishing feature to differentiate between at least one non-keyword and at least one keyword.

### **Conclusion**

24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Utama whose telephone number is (571) 272-1676. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571)272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RU  
Robert Utama/November 6<sup>th</sup> 2006

*Kathleen Mosser*  
KATHLEEN MOSSE  
PRIMARY EXAMINER



# INFORMATION DISCLOSURE CITATION

PTO-1449

## Complete if Known

Application No.	11/055,306
Filing Date	2/9/2005
First Named Inventor	Dennis R. Berman
Group Art Unit	3714
Atty. Docket No.	TRV03-0001-3


## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASSIFICATION
RU	5,141,439	08-1992	Cousins, Edward J.	434/178
RU	6,186,795	02-2001	Wilson, Henry Allen	434/236

## FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						Yes	No
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

EXAMINER:		DATE CONSIDERED	08 11/100/2006
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EXAMINER: Initial reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



# INFORMATION DISCLOSURE CITATION

PTO-1449

## Complete if Known

Application No.	11/055,306
Filing Date	2/9/2005
First Named Inventor	Dennis R. Berman
Group Art Unit	3714
Atty. Docket No.	TRV03-0001-3

## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS
RU	2004/0002049	01-2004	Beavers et al. ✓	434	350
RU	6,662,365	12-2003	Sullivan et al. ✓	725	25
RU	6,755,662	06-2004	Fujino et al. ✓	434	322
RU	2004/0009462	01-2004	McElwrath, Linda Kay ✓	434	350
RU	6,526,257	02-2003	Dol et al. ✓	434	350
RU	2001/0036619	11-2001	Kerwin, Patrick A. ✓	434	118
RU	2003/0027122	02-2003	Stansvik, Bjorn ✓	434	323
RU	2001/0053513	12-2001	Corn et al. ✓	434	350
RU	2003/0049592	03-2003	Park, Nam-Kyo ✓	434	322
RU	6,898,411	05-2005	Ziv-El et al. ✓	434	350

## FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						Yes	No
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

RU	Spaced repetition. [online], [retrieved on April 26, 2005]. Retrieved from the Internet <URL: <a href="http://en.wikipedia.org/wiki/Spaced_repetition">http://en.wikipedia.org/wiki/Spaced_repetition</a> >
RU	Calinski. FullRecall. [online] [retrieved on April 25, 2005]. Retrieved from the Internet <URL: <a href="http://www.fullrecall.com">http://www.fullrecall.com</a> >
RU	Super Memory. [online], [retrieved on April 25, 2005]. Retrieved from the Internet <URL: <a href="http://www.supermemo.com">http://www.supermemo.com</a> >
EXAMINER	DATE CONSIDERED 09/12/2006

EXAMINER: Initial reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



# **Notice of References Cited**

Application/Control No.

11/055,306

Applicant(s)/Patent Under  
Reexamination  
BERMAN, DENNIS R.

Examiner

Robert J. Utama

Art Unit

3714

Page 1 of 1

## **U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,022,221	02-2000	Boon, John F.	434/156
*	B	US-6,755,661	06-2004	Sugimoto, Koichi	434/322
*	C	US-6,526,258	02-2003	Bejar et al.	434/350
*	D	US-6,551,109	04-2003	Rudmik, Tom R.	434/322
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

## **FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

## **NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/055,306	02/09/2005	Dennis R. Berman	TRV03-0001-3	1500
28422	7590	08/11/2005	EXAMINER	
HOYT A. FLEMING III			HARRIS, CHANDA L	
P.O. BOX 140678				
BOISE, ID 83714			ART UNIT	PAPER NUMBER

3714

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

11/055,306

Examiner

Chanda L. Harris

Applicant(s)

BERMAN, DENNIS R.

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 40-44 and 50-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 40-44 and 50-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/9/05, 4/26/05 7/22/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of Claims***

In response to the Preliminary Amendment filed 2/9/05, Claims 40-59 were pending.  
Claims 1-39 are cancelled.

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 40-44 and 50-59, drawn to a computer system for providing training, classified in class 434, subclass 362.
- II. Claims 45-49, drawn to a computer system for providing training, classified in class 434, subclass 362.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as a computer system that does not require an answer to the question including a code that identifies a keyword. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

During a telephone conversation with Hoyt Fleming on 6/28/05 a provisional election was made without traverse to prosecute the invention of Group I, claims 40-44 and 50-59. Affirmation of this election must be made by applicant in replying to this Office action. Claims 45-49 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Specification***

The use of the trademarks JAVASCRIPT, STARBUCKS, IBM, INTERNATIONAL BUSINESS MACHINES, MICROSOFT WINDOWS, DIRECTX, OPENGL, MICROSOFT INTERNET EXPLORER, HEWLETT PACKARD, APPLE COMPUTER have been noted in this application. Applicant is required to review the specification for any other instances of trademarks and make the appropriate corrections. They should be capitalized wherever they appear and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 40-44 and 50-59 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not describe the subject matter pertaining to the database separately storing the at least one keyword so that the keyword is stored in the database in two locations.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 40-42 and 51, 57-59 are rejected under 35 U.S.C. 102(b) as being anticipated by Boon (US 6,022,221).**

1. [Claim 40]: Regarding Claim 40, Boon discloses a program storage device including a database that stores a question and an answer to the question (i.e., q/a pairs). See Col.9: 42-47. Boon discloses the answer including at least one keyword (i.e., the answer as it is displayed when the user inputs the correct answer), the database also separately storing the at least one keyword (i.e., in another field) so that the keyword is stored in the database in two locations (i.e., q/a field and another field), the program storage device further including computer readable instructions that when

executed by the computer system utilize the question, the answer to the question, and the separately stored keyword. See Col.9: 42-55. To provide training to at least one user is language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure, and thereby, does not limit the scope of a claim or claim limitation.

2. [Claim 41]: Regarding Claim 41, wherein the question, the answer to the question, and the separately stored keyword are stored in a database table would have been an inherent feature of Boon's invention as tables what comprises a database structure.

3. [Claim 42]: Regarding Claim 42, Boon discloses wherein the question, the answer to the question, and the separately stored keyword are stored in separate columns (i.e., fields) of a database table. See Col.9: 41-48.

4. [Claim 51]: Regarding Claim 51, Boon discloses wherein the database stores data indicating whether a user is taking an Introductory round (i.e., EASY display mode) of training or a Retention round (i.e., reviews) of training, and wherein the program storage device includes computer-readable instructions that when executed by the computer system utilize the data indicating whether a user is taking an Introductory round of training or a Retention round of training. See Col.4: 46-48 and Col.5: 18-23. To provide training to at least one user is language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure, and thereby, does not limit the scope of a claim or claim limitation.

Art Unit: 3714

5. [Claims 57-59]: Regarding Claims 57-59, Boon's invention is capable of indicating the Retention round number in which a user successfully answered a question/a question two times/X times without a hint in that Retention round, and wherein the program storage device includes computer-readable instructions that when executed by the computer system utilize the Retention round number in which a user successfully answered a question/a question two times/X times (where X is an integer greater than 2) without a hint in that Retention round. To provide training to at least one user is language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure, and thereby, does not limit the scope of a claim or claim limitation.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boon in view of Sugimoto (US 6,755,661).**

6. [Claim 43]: Regarding Claim 43, Boon does not disclose expressly wherein the database table also stores a question number, and wherein the program storage device includes computer readable instructions that when executed by the computer system utilize the question number. However, Sugimoto teaches such in Col.6: 9. Therefore,



at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate storing a question number into the method and system of Boon, in light of the teaching of Sugimoto in order to store questions for tests. To provide training to at least one user is language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure, and thereby, does not limit the scope of a claim or claim limitation.

**Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boon in view of Bejar et al. (US 6,526,258).**

7. [Claim 44]: Regarding Claim 44, Boon does not disclose expressly wherein the database table also stores a question title (i.e., question name), and wherein the program storage device includes computer readable instructions that when executed by the computer system utilize the question title. However, Bejar teaches such in Col.6:

37. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate storing a question title into the method and system of Boon, in light of the teaching of Bejar, in order to relationally store information related to a response in a database. To provide training to at least one user is language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure, and thereby, does not limit the scope of a claim or claim limitation.

**Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boon in view of Rudnik (US 6,551,109).**

8. [Claim 50]: Regarding Claim 50, Boon does not disclose expressly wherein the database stores data indicating the number of days of multi-day training that the user has completed, and wherein the program storage device includes computer-readable instructions that when executed by the computer system utilize the data indicating the number of days of a multi-day training that the user has completed. However, Rudnik teaches such (i.e., Training completed in One Day) in Col.3: 3336-52. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into the method and system of Boon, in light of the teaching of Rudnik, in order to determine the instructional sequence for a user for the next day. To provide training to at least one user is language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure, and thereby, does not limit the scope of a claim or claim limitation.

**Claims 52-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boon.**

[Claims 52-56]: Regarding Claims 52-56, Boon does not disclose expressly wherein the database stores data indicating the number of times that a user retried a plurality of questions in an Introductory/Retention round of training, and wherein the program storage device includes computer readable instructions that when executed by the computer system utilize the data indicating the number of times that a user retried the

Art Unit: 3714

plurality of questions in an Introductory/Retention round of training and wherein the database stores data indicating the number of times that a user utilized a hint to answer a question, and wherein the program storage device includes computer-readable instructions that when executed by a computer system utilize the data indicating the number of times that a user utilized a hint to answer a question. However, the concept of indicating the number of times that a user has retried a plurality of questions and indicating the number of times that a user utilized a hint is old and well known in the art. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Boon in order to facilitate determining which instructional material to present next, or provide training to at least one user/ to determine the relative difficulty level of the plurality of questions is language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure, and thereby, does not limit the scope of a claim or claim limitation.

#### ***Citation of Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Pellegrino et al. (US 6,149,441)

-keywords

- Sonnenfeld (US 6,112,049)

-test authoring

- DeNicola et al. (US 6,288,753)  
-question, answer, keyword, database
- Cook et al. (US 5,727,950)  
-number of attempts, hints

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 571-272-4448. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Chanda L. Harris*  
Chanda L. Harris  
Primary Examiner  
Art Unit 3714

# INFORMATION DISCLOSURE CITATION

PTO-1449

## Complete if Known

Application No.	Unknown
Filing Date	February 9, 2005
First Named Inventor	Dennis R. Berman
Group Art Unit	Unknown
Atty. Docket No.	TRV03-0001-3
Page Number	1 of 4

## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
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EXAMINER

*Chanda L. Harris*

DATE CONSIDERED

*8/8/05*

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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Group Art Unit	Unknown
Atty. Docket No.	TRV03-0001-3
Page Number	2 of 4

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EXAMINER

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CH	3,408,749	11/05/68	Brudner	<del>35</del>	<del>48</del>	<del>04/11/67</del>
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EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						Yes	No
CH	EP 1008975 A2	06/14/00	EP	G09B	7/04	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

CH	CROWDER, NORMAN A., Arithmetic of Computers. An Introduction to Binary and Octal Mathematics. A Tutor Text, 1958, pp I-iv and 1-18, Doubleday & Company, Garden City, NY.
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EXAMINER	Chanda L. Harris	DATE CONSIDERED	8/8/05
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.





# INFORMATION DISCLOSURE CITATION

PTO-1449

## Complete if Known

Application No.	11/055,306
Filing Date	2/9/2005
First Named Inventor	Dennis R. Berman
Group Art Unit	3714
Atty. Docket No.	TRV03-0001-3

## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE

## FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
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						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

~~Spaced repetition - Wikipedia Retrieved from the Internet on April 26, 2005. <URL: http://en.wikipedia.org/wiki/Spaced\_repetition>.~~

~~FullRecall Retrieved from the Internet on April 25, 2005. <URL: http://www.fullrecall.com>.~~

~~Super Memory Retrieved from the Internet on April 25, 2005. <URL: http://www.supermemo.com>.~~

EXAMINER

*Chamla L. Harris*

DATE CONSIDERED

*8/8/05*

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



# INFORMATION DISCLOSURE CITATION

PTO-1449

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First Named Inventor	Dennis R. Berman
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## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS
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CH	6,755,662	06-2004	Fujino et al.	<del>434</del>	<del>322</del>
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CH	6,526,257	02-2003	Doi et al.	<del>434</del>	<del>350</del>
CH	2001/0036619	11-2001	Kerwin, Patrick A.	<del>434</del>	<del>418</del>
CH	2003/0027122	02-2003	Stansvik, Bjorn	<del>434</del>	<del>323</del>
CH	2001/0053513	12-2001	Corn et al.	<del>434</del>	<del>350</del>
CH	2003/0048592	03-2003	Park, Nam-Kyo	<del>434</del>	<del>322</del>
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## FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
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						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

CH	Spaced repetition. [online]. [retrieved on April 26, 2005]. Retrieved from the Internet <URL: <a href="http://en.wikipedia.org/wiki/Spaced_repetition">http://en.wikipedia.org/wiki/Spaced_repetition</a> >		
CH	Calinski. FullRecall. [online] [retrieved on April 25, 2005]. Retrieved from the Internet <URL: <a href="http://www.fullrecall.com">http://www.fullrecall.com</a> >		
CH	Super Memory. [online]. [retrieved on April 25, 2005]. Retrieved from the Internet <URL: <a href="http://www.supermemo.com">http://www.supermemo.com</a> >		
EXAMINER	Chanda L. Harris	DATE CONSIDERED	8/8/05

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<b>Notice of References Cited</b>	Application/Control No. 11/055,306		Applicant(s)/Patent Under Reexamination BERMAN, DENNIS R.	
	Examiner Chanda L. Harris		Art Unit 3714	Page 1 of 1

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	A	US-5,727,950	03-1998	Cook et al.	434/350
	B	US-6,526,258	02-2003	Bejar et al.	434/350
	C	US-6,022,221	02-2000	Boon, John F.	434/156
	D	US-6,551,109	04-2003	Rudmik, Tom R.	434/322
	E	US-6,288,753	09-2001	DeNicola et al.	348/586
	F	US-6,769,917	08-2004	Fujino et al.	434/322
	G	US-6,112,049	08-2000	Sonnenfeld, Bruce	434/350
	H	US-6,755,661	06-2004	Sugimoto, Koichi	434/322
	I	US-6,149,441	11-2000	Pellegrino et al.	434/350
	J	US-			
	K	US-			
	L	US-			
	M	US-			

#### FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

#### NON-PATENT DOCUMENTS

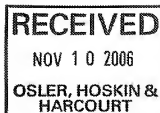
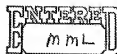
*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)			
	U				
	V				
	W				
	X				

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



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November 8, 2006

**OSLER, HOSKIN & HARCOURT LLP**  
1500 - 50 O'Connor Street  
OTTAWA Ontario  
K1P 6L2

**Application No. : 2,470,035**  
**Owner : DRB LIT LTD.**  
**Title : METHOD OF AND SYSTEM FOR LEARNING KEYWORD  
BASED MATERIALS**  
**Classification : G09B 5/02 (2006.01)**  
**Your File No. : PCA16787**  
**Examiner : Goran Basic**

YOU ARE HEREBY NOTIFIED OF :

- A REQUISITION BY THE EXAMINER IN ACCORDANCE WITH SUBSECTION 30(2) OF THE *PATENT RULES*;
- A REQUISITION BY THE EXAMINER IN ACCORDANCE WITH SECTION 29 OF THE *PATENT RULES*.

IN ORDER TO AVOID **MULTIPLE ABANDONMENTS** UNDER PARAGRAPH 73(1)(A) OF THE *PATENT ACT*, A WRITTEN REPLY TO EACH REQUISITION MUST BE RECEIVED WITHIN **6** MONTHS AFTER THE ABOVE DATE.

This application has been examined as originally filed.

The number of claims in this application is 27.

The examiner has identified the following defects in the application:

Claims 18-24 are directed to non-statutory subject matter, and are outside of the definition of invention in section 2 of the Patent Act. Claims 18-24 are directed to a computer program, which is not considered to be patentable subject matter and is subject to protection under Copyright Law.

The search of the prior art has revealed the following:

References Applied:

United States Patents

5141439	Aug. 25, 1992	434/178	Cousins
6186795	Feb. 13, 2001	434/236	Wilson
6077085	June 20, 2000	434/322	Parry et al.

Cousins discloses a keyword teaching and testing method comprising a five readings of a segment of a text in which first reading represents a familiarization with the text, second one is learning and memorizing the keywords by underlining them in the text, the third readings comprises filling the blanks relaying on comprehension recall and skipping those when comprehension fails. The performance is monitored and visual feedback provided by comparing the answers with the original text.

Wilson discloses a learning and memorization system which combines the coordination of alphabetic mnemonics, number integers and colors to provide a user with multiple mechanisms for learning memorizing information.

Parry et al. discloses a computer assisted learning system for performing various tasks including learning and memorizing new textual materials, in particular for learning new languages.

Claims 1, 5-7, 10, 11, 15 and 16 do not comply with paragraph 28.2(1)(b) of the Patent Act. Cousins disclosed the claimed subject matter before the claim date.

Claims 2-4, 9, 12-14, 17, 25 and 26 do not comply with section 28.3 of the Patent Act. The subject matter of these claims would have been obvious on the claim date to a person skilled in the art or science to which they pertain having regard to Cousins in view of Parry.

Applicant claims a method for training a learner to learn and memorize one or more unfamiliar learning entities. The difference between the objected claims and Cousins is in prohibition of the learner to be provided with secon learning element if the first element is answered incorrectly, in hinting the learner by starting learning element or providing additional learning elements and highlighting provided evaluated learning element. These features are found in Parry et al.. It would have been obvious to a person skilled in the art on the claim date to use system disclosed by Cousins and modify it by adding the features found in Parry et al.

Claims 8 and 27 do not comply with section 28.3 of the Patent Act. The subject matter of these claims would have been obvious on the claim date to a person skilled in the art or science to which they pertain having regard to Cousins in view of Wilson.

Cousins does not disclose an alphanumerical group as a learning entity. This feature is known from Wilson. It would have been obvious to a person skilled in the art on the claim date to use system disclosed by Cousins and modify it by using alphanumerical group as a learning entities as disclosed by Wilson.

Under Section 76 of the Patent Rules, every trade-mark must be identified as a trade-mark. If "Windows 98" and "Internet Explorer" on page 5 are trade-marks, they must be so identified.

The drawings must be amended to comply with Section 82(11) of the Patent Rules. The drawings shall not contain text matter except to the extent required for the understanding of the drawings. It is not clear what is the meaning of "RO356-4" on each drawing.

In view of the foregoing defects, the applicant is requisitioned, under subsection 30(2) of the *Patent Rules*, to amend the application in order to comply with the *Patent Act* and the *Patent Rules* or to provide arguments as to why the application does comply.

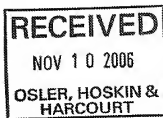
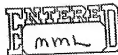
***Section 29 of the Patent Rules requisition***

Under section 29 of the *Patent Rules*, the applicant is requisitioned to provide:

- an identification of any prior art cited in respect of the European Patent Office application describing the same invention on behalf of the applicant or on behalf of any other person claiming under an inventor named in the present application, and the patent number, if granted, under paragraphs 29(1)(a) and 29(1)(b) of the *Patent Rules*.

To satisfy this requisition, applicant should provide all the preceding information or documents, or provide in accordance with subsection 29(3) of the *Patent Rules* a statement of reasons why any information or document is not available or known.

Goran Basic  
Patent Examiner  
(819) 953-2098  
2470035A.gb



November 8, 2006

**OSLER, HOSKIN & HARCOURT LLP**  
1500 - 50 O'Connor Street  
OTTAWA Ontario  
K1P 6L2

**Application No. : 2,469,384**  
**Owner : DRB LIT LTD.**  
**Title : METHODS OF SELECTING LOCK-IN TRAINING COURSES AND SESSIONS**  
**Classification : G09B 7/00 (2006.01)**  
**Your File No. : PCA16788**  
**Examiner : Goran Basic**

**YOU ARE HEREBY NOTIFIED OF :**

- A REQUISITION BY THE EXAMINER IN ACCORDANCE WITH SUBSECTION 30(2) OF THE *PATENT RULES*;
- A REQUISITION BY THE EXAMINER IN ACCORDANCE WITH SECTION 29 OF THE *PATENT RULES*.

IN ORDER TO AVOID **MULTIPLE ABANDONMENTS** UNDER PARAGRAPH 73(1)(A) OF THE *PATENT ACT*, A WRITTEN REPLY TO **EACH REQUISITION** MUST BE RECEIVED WITHIN **6** MONTHS AFTER THE ABOVE DATE.

This application has been examined as originally filed.

The number of claims in this application is 39.

The examiner has identified the following defects in the application:

Claims 1-39 are directed to non-statutory subject matter, and are outside the definition of invention in section 2 of the Patent Act. Claims 1-39 are directed to a program storage device containing a computer readable code. The system, incomplete as claimed without a processor and memory, is not capable to perform the claimed act. A program storage device containing a computer readable code is not patentable under Section 2.

The search of the prior art has revealed the following:

References Applied:

United States Application

2004/009462 Jan. 15, 2004 434/350 McElwrath

Japanese Patent

2004005322 Jan. 8, 2004 G06F 17/30 Fujino et al.

McElwrath discloses a method of developing a customized electronic course of study comprising a learning system database having a computer code which performs requests to a Web server to open a homepage and where the home page has a plurality of objects for the selection of a course and where a course includes a plurality of questions and answers.

Fujino et al. discloses a method for presenting a question by a host computer which receives question from user. The method comprises a database of questions and answers and keywords from questions and answers are extracted and separately stored.

Claims 1, 2, 6, 8-15, 19, 21-28, 32, 34-39 do not comply with section 28.3 of the Patent Act. The subject matter of these claims would have been obvious on the claim date to a person skilled in the art or science to which they pertain having regard to McElwrath in view of Fujino et al. Applicant discloses a a program storage device containing computer readable code which performs requesting a Web server to serve a Web document and where a Web document has ability to provide for selection of a course which has a plurality of questions and answers. The difference between the claims and McElwrath is that the prior art does not disclose a plurality of keywords that form a part of answers. This feature is disclosed in Fujino et al. It would have been obvious to a person skilled in the art on the claim date to use system disclosed by McElwrath and modify it by adding keywords to the plurality of answers as disclosed by Fujino et al.

Claim 35 does not comply with subsection 87(2) of the Patent Rules. A dependent claim may only refer to a preceding claim or claims.

Under Section 76 of the Patent Rules, every trade-mark must be identified as a trade-mark. If "Dell Computer Corporation", "International Business Machines", "Hewlett-Packard Company" and "Apple Computer Corporation" on page 49 and "C++", "Direct X" and "Open GL" on page 51 are trade-marks, they must be so identified.

On page 1, line 18 there is a typo. The words "a and" should read "an".

In view of the foregoing defects, the applicant is requisitioned, under subsection 30(2) of the *Patent Rules*, to amend the application in order to comply with the *Patent Act* and the *Patent Rules* or to provide arguments as to why the application does comply.

#### **Section 29 of the Patent Rules requisition**

Under section 29 of the *Patent Rules*, the applicant is requisitioned to provide:

- an identification of any prior art cited in respect of the European Patent Office application describing the same invention on behalf of the applicant or on behalf of any other person claiming under an inventor named in the present application, and the patent number, if granted, under paragraphs 29(1)(a) and 29(1)(b) of the *Patent Rules*.



To satisfy this requisition, applicant should provide all the preceding information or documents, or provide in accordance with subsection 29(3) of the *Patent Rules* a statement of reasons why any information or document is not available or known.

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Patent Examiner  
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